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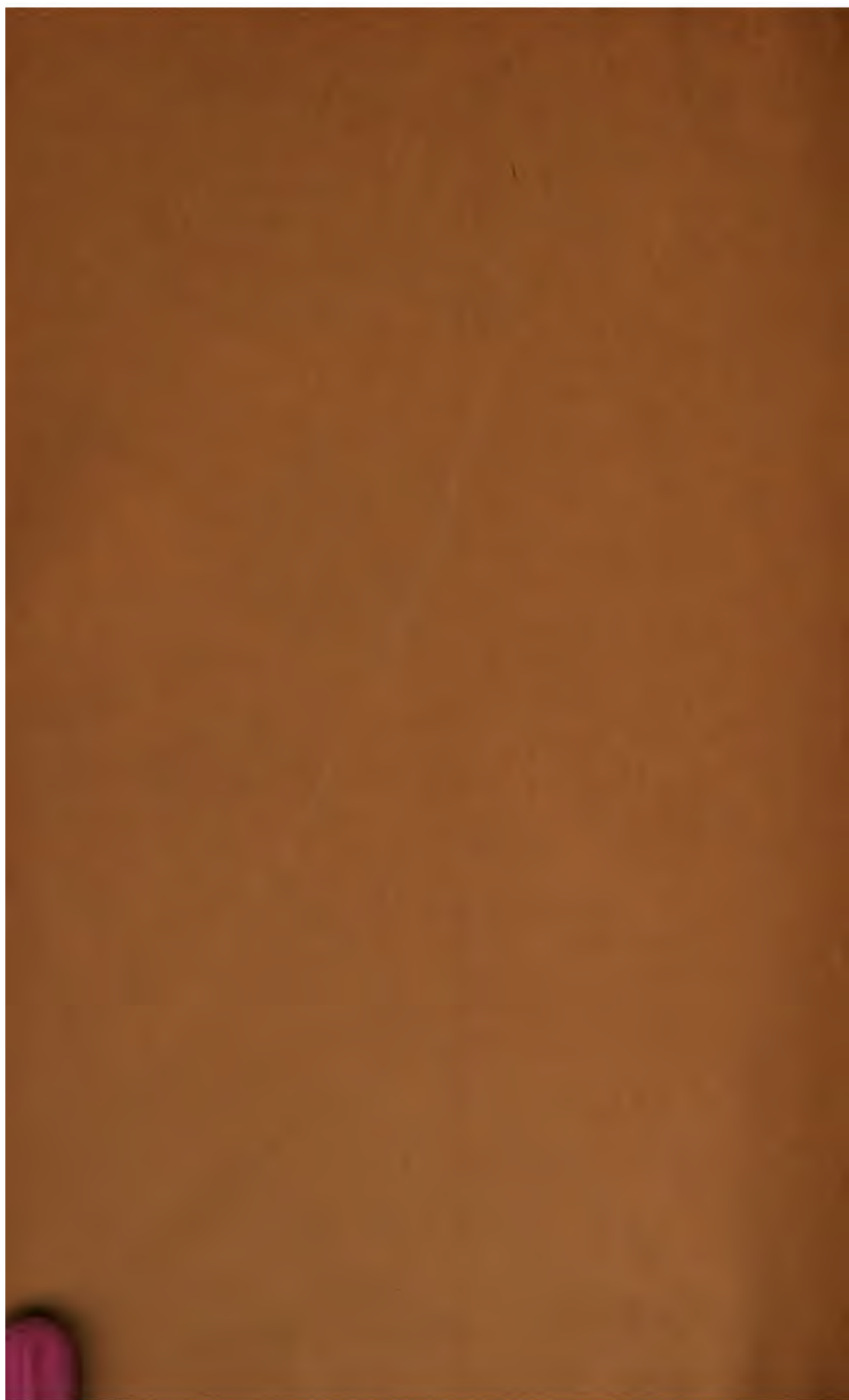
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CORRESPONDENCE

Oct 31

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OF

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THE DEPARTMENT OF STATE,

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ACCOMPANYING THE

ANNUAL MESSAGE OF THE PRESIDENT OF THE UNITED STATES

TO THE

TWO HOUSES OF CONGRESS.

DECEMBER, 1855.

WASHINGTON:
A. O. P. NICHOLSON, SENATE PRINTER.
1856.

1859. Feb. 22.

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NOV 10 1924

CORRESPONDENCE.

SOUND DUES.

Mr. Marcy to Mr. Bedinger.

[No. 4.]

DEPARTMENT OF STATE,
Washington, February 1, 1854.

SIR: Your dispatches (Nos. 2 and 3) have been received.

On the 20th of last December, a resolution of the House of Representatives (a copy of which is enclosed) requested the President to communicate to that House information as to the state of the negotiations between the United States and Denmark in relation to the imposition of "sound dues."

The answer to this resolution has been deferred in the hope of receiving a formal reply to the note addressed by you on the subject to the minister of foreign relations of Denmark, after your unsatisfactory conversation with him on the 1st of December last. If that formal reply shall not have been given by or before the period of the reception of this dispatch, you will immediately make known to the Danish government the wishes and expectations of the President in regard to this burden upon our commerce, to which the government and people of this country cannot reasonably be expected to submit any longer.

I am, sir, respectfully, &c.,

W. L. MARCY.

HENRY BEDINGER, Esq., &c., &c., &c.,
Copenhagen.

Mr. Bille to Mr. Marcy.

DANISH LEGATION,
Washington, February 17, 1855.

The undersigned, his Danish majesty's chargé d'affaires, has been instructed by his government to express to the honorable W. L. Marcy, Secretary of State of the United States, the regret with which his majesty's government has learned that the President of the United States has deemed it advisable to recommend to Congress that notice be given to Denmark of the intention of this government to terminate the existing convention of April 26, 1826.

The principal motive for this recommendation is stated by the President to be a desire to avoid any embarrassment which the stipulation contained in the 5th article of the convention might occasion in claiming for the shipping and commerce of the United States exemption from the sound dues.

The President declares that he does not doubt that such exemption can be claimed as a matter of right, stating "it to be admitted on all hands that this exaction is sanctioned not by the general principles of the law of nations, but only by special conventions, which most of the commercial nations have entered into with Denmark."

His majesty's government, disagreeing with this view of the bearing of the law of nations and of treaties on the right of Denmark to levy the sound dues, and being persuaded that a frank and explicit statement of what it holds to be the true nature and character of the said right cannot but tend to remove any cause of misunderstanding between the two governments in reference to this subject, has instructed the undersigned to submit to the consideration of the government of the United States a statement to that effect, which he has the honor of doing in the following remarks:

His majesty's government holds that the right of Denmark to the sound dues is a right existing under the law of nations, by immemorial prescription, and therefore independent of all treaties.

The sound dues are anterior to all treaties, and have existed from time immemorial. The treaties concluded by Denmark, in which mention is made of the sound dues, therefore, do not and could not confer a right which already existed and had existed for ages. Nor has the right itself, or the title by which it was exercised, ever been made the subject of negotiation, but only the amount of the dues and the manner of levying them. The treaties of the last three or four centuries, therefore, while sanctioning the right, by the irrefragable evidence they present of a general recognition of the sound dues by all nations and at all times, do not in the least affect its character as an immemorial right existing independently of all treaties.

To suppose that these dues have their sole foundation in special conventions entered into with Denmark would, besides, lead to the extraordinary conclusion that numerous and powerful States should separately have agreed to make a grant of them to Denmark.

To suppose that the sound dues were not a right under the law of nations, but an exaction not sanctioned by the general principles of that law, would lead to a conclusion no less extraordinary, to wit: that the numerous and powerful States interested in the navigation of the Baltic should from time immemorial have submitted to this exaction, and finally even recognized it in their treaties with Denmark, though in no way bound to respect any right in her to levy the dues.

The uninterrupted existence of the sound dues from time immemorial, and their recognition in numerous treaties, can only be satisfactorily accounted for by admitting that these dues have existed and continue to exist as a recognized right under the law of nations.

The actual origin of the sound dues is lost in the obscurity of remote antiquity, but it is unquestionable that, at a later period, when a system of public law began to regulate the international rights and relations of States, the privilege of levying a toll at a narrow water passage like the sound was in strict conformity with the then prevailing ideas of the extent and importance of the rights of sovereignty possessed by a State over the seas, straits, and bays,

within its limits or adjacent to its territories. The sound dues consequently appeared as an attribute of Danish sovereignty, and were, conjunctively with their immemorial character, acknowledged as such.

The nature and extent of these maritime rights of sovereignty have since been differently judged; and his majesty's government readily admits that the general principles of the law of nations would now hardly seem to sanction the imposition of tolls similar to the sound dues where none before had existed.

But his majesty's government must protest against particular doctrines of the international law of our time being exclusively applied as a criterion whereby to judge of the validity of rights that have their origin in a past age, and have come down to the present day sanctioned by immemorial observance.

The existence of the sound dues may appear contrary to the rule that the highways of nature are free to all, and may no longer find an adequate title in the doctrine of the unlimited rights of sovereignty possessed by a State over its adjacent waters; but these dues have an existence, independent of such considerations, as an exceptional right vested in Denmark by virtue of immemorial prescription—a title recognized by all law, and by none more so than by the law of nations.

Not even the congress of Vienna, when remodelling the map of Europe and legislating on the free navigation of rivers, found occasion to object to the continuance of the sound dues, which certainly would not have been neglected if those dues were deemed an unjust exaction and not sanctioned by the law of nations.

The policy of Europe, in this respect, and more particularly of the Baltic powers, whose commerce and navigation are especially subjected to the sound dues, would, indeed, be inexplicable if those dues were not recognized as founded on a right belonging to Denmark by immemorial prescription, and, consequently, by the law of nations.

Thus a most distinguished statesman, when minister of foreign affairs of a great European power, did not hesitate to declare, in an official dispatch, that his government never had disputed the right to the sound dues; that it did not enter, and never could enter, into its intentions in any manner to impair a right which he characterized as sacred, and to which he recognized the title of Denmark to be indisputable.

His majesty's government, therefore, cannot perceive in what manner the abrogation of the existing convention between the two countries can in any way affect the obligation of the government of the United States to respect a right of the crown of Denmark, which it possesses independently of all treaties.

The exemption of the shipping and commerce of the United States from the sound dues could, moreover, not be conceded by Denmark without eventually extending the exemption to all nations, inasmuch as an undue advantage would otherwise manifestly be conferred on the shipping and commerce of one nation over that of all others. The assertion of such a claim, therefore, on the part of the United States, would be tantamount to a demand that the sound dues should be abolished altogether.

His majesty's government would consider it as a betrayal of the ancient rights of the Danish crown, and of the interests of the country over which it is its first and most imperative duty to watch, if it did not, to the utmost of its power, seek to avert or even to resist any demand requiring those rights and interests to be sacrificed.

The undersigned avails himself of this occasion to renew to the honorable Secretary of State the assurance of his high consideration.

TORBEN BILLE.

Hon. W. L. MARCY,
Secretary of State of the United States.

Mr. Marcy to Mr. Bedinger.

[No. 9.]

DEPARTMENT OF STATE,
Washington, March 12, 1855.

SIR: In communicating to you a copy of a resolution of the Senate, of the 3d instant, adopted in executive session, authorising the President to give to the government of Denmark the notice required by the eleventh article of the general convention of April 26, 1826, between the United States and that government, for the termination of the same, I am directed by the President to express his regret at the necessity which has led to this proceeding. He had hoped that the government of Denmark would have favorably considered the appeal to its justice, which you had been instructed to make on the part of your government, for the abolition of the oppressive duties, or tolls which have been levied for so long a period by that power upon vessels of the United States and their cargoes in the Baltic Sea, in violation of the right which all nations possess to the unrestricted navigation of open seas. The right of the Danish government to exact these burdensome tolls has been steadily denied by the government of the United States, and they have been submitted to thus far only because of its unwillingness hitherto to hazard the interruption of friendly intercourse between the two countries by peremptorily refusing any longer to suffer so unwarrantable an imposition upon its commerce. As a preliminary step to such refusal on the part of this government, an announcement of its intention to terminate the existing convention between the two countries has been deemed advisable, on account of the 5th article of that convention having been construed into a concession on the part of the United States of the right of Denmark to levy the "sound dues;" and the President has accordingly been vested with authority to give such notice. He has not abandoned all hope, however, that the Danish government may yet show such a disposition in reference to this subject as may render unnecessary the communication of the notice for the termination of a convention which has been so mutually advantageous. You are therefore instructed, unless in your judgment there should be no prospect of such a step being attended with success to make another and final appeal to the government of Denmark to relieve our commerce from the burden of the sound dues. Should you, however, determine to make no further

attempt to attain that object by negotiation, or should your effort, if made, prove unsuccessful, you will then immediately communicate to the government of Denmark the notice for the termination of the convention, requesting an acknowledgment thereof, a copy of which you will transmit hither with the least practicable delay.

I am, sir, &c.,

W. L. MARCY.

HENRY BEDINGER, Esq., &c., &c., &c.,
Copenhagen.

Mr. Bedinger to Mr. Marcy.

[Extract.]

[No. 15.]

LEGATION OF THE UNITED STATES,
Copenhagen, April 20, 1855.

SIR: Your dispatch of the 12th ultimo was received by me on the 6th instant. It had been detained several days by the obstruction to the navigation, occasioned by the ice. In consequence of passion week, immediately succeeding its reception, I could not act upon the instructions which it contained until the 12th instant. On that day I made "another and final appeal" to the government of Denmark, through his excellency M. Scheel, minister of foreign affairs, upon the subject of the "sound dues."

I told you in one of my dispatches that M. Bluhme, the former minister of foreign affairs, had expressed the opinion very unequivocally, that Denmark would never consent to abandon those tolls, without receiving from us some equivalent for them, and that, in my own opinion, all negotiation and verbal communications upon the subject would prove utterly fruitless. But, as I had been induced to believe that arrangements were being made between yourself and the Danish chargé d'affaires in America, which might possibly result in some final settlement of the question, and as I received no reply to my dispatch of the 28th July last, in which I said, "since the date of my dispatch of the 1st of April, 1854, I have received nothing further from your department upon the subject of the 'sound dues,' I am left to infer, therefore, that it is determined not to press that matter further at present, and shall wait till I hear again from you on the subject." I, of course, did not move again in the matter until the arrival of your last dispatch and instructions. Having received them, I called on the minister of foreign affairs on the 12th instant. In the conversation which I had with him, I reiterated, as well as I could, all the forcible reasons and unanswerable arguments which you have so clearly set forth in the first instructions given me upon that subject, and I urged them upon his excellency with what power I could. I was listened to with attention and courtesy, and the result was, that his excellency told me in the most emphatic, unequivocal, and positive terms, that Denmark would never consent to abandon her right to collect the "sound dues" from the vessels of the United States,

without some equivalent, granted by our government, in lieu thereof. He went on to say, that all the other powers that objected to the payment of the "dues," England, Prussia, Sweden, &c., would, as he believed, consent to pay Denmark an equivalent (not clearly defined by him) for the remission of those dues, and that he would be glad to treat with the United States as with the others, &c., &c. I could only reply that my instructions were positive upon that point, and forbade me to offer any bribe for that which was clearly our right, and his answer satisfied me that it was vain to talk any longer upon the subject. I then told his excellency that I was authorized to give the notice to terminate the treaty of 1826, &c. He said, in effect, you can give that notice whenever it shall suit your convenience; whilst we shall regret such a step, upon the part of the United States, you will please understand that the answer which I have given you to-day, in relation to the "sound dues," will not be changed or modified, &c. All this, the substance only of which I venture to give you, though uttered with great courtesy, and with many protestations of friendship for the United States, was said, nevertheless, with the utmost positiveness. So that I saw, at once, my duty to be to give the notice directed in your last dispatch, and accordingly I did so, on the 14th instant, in the following words:

LEGATION OF THE UNITED STATES,
Copenhagen, April 14, 1855.

SIR: I have the honor to inform you that I am directed by the President of the United States respectfully to notify your excellency, and through your excellency the government of his majesty the king of Denmark, that, after the expiration of one year from the date of this communication, the United States will regard the general convention of "friendship, commerce, and navigation," agreed upon by Denmark and themselves on the 26th of April, 1826, as finally abrogated, and that after that period its provisions will not be binding upon our government.

This notice is now given in consequence of the recent conversation which I had with your excellency upon the subject of the "sound dues." The very decided and positive manner in which your excellency was pleased to express the opinion that Denmark would never consent to remit those taxes upon the commerce of the United States without some equivalent granted by them in lieu thereof, has left me no other course to pursue. But, in taking this step, I am especially instructed by the President to express to your excellency his sincere regret at the necessity which has compelled him to give notice of the termination of a convention which has been so mutually advantageous.

Your excellency will allow me to express the hope that, before the end of the approaching year, Denmark will see the justice and propriety of permitting the free vessels of the United States to pursue their commercial ends, upon the open seas, undisturbed by the tributes or arrestations of any power. I shall continue to cherish this hope to the last hour limited for the termination of the convention, and even longer. I beg that your excellency will acknowledge the

receipt of this note at the earliest convenient hour; and I seize the occasion to repeat to your excellency the assurance of my sincere regard and esteem.

HENRY BEDINGER.

His Excellency M. SCHEEL, &c., &c., &c.

On the 18th instant I received an answer to the above note, the original, and also a translation of which, I herewith enclose. It might be inferred, from the concluding portion of this reply, and from the implied threat which it conveys, that this government is further than ever from yielding to our just demands in this matter. But the disposition to resist the payment of the "sound dues" is becoming general among commercial nations, and is increasing every day. I believe the steps resolved upon by the President will be, secretly if not openly, applauded by all those subjected to the payment of those duties; and, although there is in this country, just now, some irritation upon the subject, yet I think that even here the result will prove beneficial to us, and I am not entirely without hope that Denmark will ultimately be induced to abandon the ground she has so long maintained without compelling us to actual resistance.

Several articles have appeared, within the last day or two, in the Danish papers upon the subject. Some of these are being translated; and, if they shall prove of sufficient importance, will be sent you.

* * * * *

I have the honor to be your obedient servant,

HENRY BEDINGER.

Hon. WM. L. MARCY,
Secretary of State.

M. Scheel to Mr. Bedinger.

[Translation.]

COPENHAGEN, April 17, 1855.

SIR: Conformably to the desire which you expressed to me on the 14th instant, I have the honor to inform you that I received, the same day, 14th April of this year, your communication containing the announcement that the President of the United States has declared the cessation of the treaty of amity, of commerce, and of navigation, concluded the 26th April, 1826, between Denmark and the United States, for the term of ten years, and twelve months additional after the denunciation.

No one can more sincerely than myself, sir, participate your regrets to see thus expire a treaty which has served so long the interests of the citizens of the United States, as well as those of the subjects of the king my august sovereign.

But I am directed to call your attention to the fact that my government cannot understand the connexion which the government of the

United States establishes between the abolition of the sound dues and the above mentioned treaty; which, it is true, regulates the rate at which the tolls should be imposed upon American vessels, but of which the existence and the title to the right itself are, however, equally independent. Nevertheless, as the government of the United States has taken the initiative in the denunciation of the treaty, the government of the king my august sovereign believes itself entitled to hope that propositions will be made to it tending to open the way for the conclusion of a new treaty, calculated, at the same time, to preserve intact the relations of commerce which have, until now, subsisted so happily between the two nations, and to prevent the consequence, equally disagreeable and necessary, of the definitive termination of the existing treaty, namely, that the vessels of the United States would, in their passage through the sound and the belts, be placed upon the same footing with those of the nations to whom no favor is shown, (*des nations non favorisées.*)

Accept, sir, &c., &c., &c.,

SHEEL.

Mr. BEDINGER,

Minister Resident of the United States of America.

Mr. Bedinger to Mr. Marcy.

[Extract.]

[No. 16.]

LEGATION OF THE UNITED STATES,
Copenhagen, October 7, 1855.

SIR: Accompanying this dispatch you will find a document in relation to the sound dues, received by me on the 5th instant, from his excellency the minister of foreign affairs for this kingdom.

In the brief note which came with it, his excellency states that the same document is designed to be presented to each of the powers interested in the affairs of the sound. I send you herewith the original document, and also a translation. You will perceive that the time and place proposed by Denmark for holding the "Congress" which she recommends, are the month of November next and the city of Copenhagen.

After reading the document, I called at once upon the minister and told him that, so far as concerned the United States, I feared he had appointed much too early a day, as it would be almost impossible to transmit his proposition to my government, and to receive instructions relative thereto so early as the month of November, &c. He replied, that he himself would have preferred a later date, but that he had been strenuously urged by several of the powers most interested in the matter, to appoint as early a day as possible. Among those powers, he particularly mentioned England and Prussia, and, I think, Russia and Sweden also, but the two former more emphatically. He added, however, that the United States would have abundant time to act in the matter, as the conference would, doubtless, be continued

several months, probably the whole winter, &c., &c. From what I have been able to learn, I have not the slightest doubt that the "congress" will take place, and that each nation, interested in any degree in the sound question, will either invest its present representative at this court with full power to act thereupon or appoint a special commissioner for that purpose.

What will be the result of the deliberations of the convention it is impossible for me to conjecture. I only know that many of the powers who pay the sound tolls to Denmark are becoming, every day, more restive under those burdens; and while hesitating themselves to take the first step in the matter, they do not object to see the United States disposed to lead the way in resisting their further imposition. Indeed, I am of opinion that if it were not for the state of things at present existing in Europe, there are several of those powers who would not hesitate to disembarass themselves of that particular tribute.

I beg to be informed, as soon as possible, of the determination to which the President shall come concerning this proposed congress, whether any one from the United States will be deputed to it, and, if so, whether I will be empowered to act, or another.

* * * * *

I have the honor to be, &c.,

HENRY BEDINGER.

Hon. WM. L. MARCY.

[Translation.]

The duties which the Danish crown levies upon vessels and cargoes passing through the straits of the sound and the belts have already been, for a long time, made the subject of violent attacks which have produced an agitation the much more obstinate that they have frequently had objects and tendencies of a political character, and have always been based upon false and perverted ideas of the right in virtue of which the duties are levied, as also of the manner in which Denmark exercises that right. The true state of things being only known to those who did not care to represent the same in its true light, general attention was very naturally directed, by preference, to the obligations which the levying of the duties imposed upon the trading public, while no one took into consideration the numerous establishments of every kind by which Denmark has constantly endeavored to facilitate the navigation of the Baltic, and to simplify the dispatch of vessels to the customs of the sound. The governments themselves, although respecting, at all times, the right which remained with Denmark, after so many sacrifices made in favor of general peace, were mostly, and for reasons the importance of which it were difficult perhaps to conceal, in our time, unable to divert from Denmark the effects of an agitation the injustice and groundlessness of which they could not but acknowledge.

The efforts of Denmark to allay this agitation led, at the beginning of the reign of King Christian VIII, the august predecessor of the reigning king, to a negotiation between Denmark, England, and

Sweden, the result of which was a revision of the old tariff of the sound ; and, by this measure, a set period of time was reached.

Nevertheless, the Danish government had by no means concealed from itself that the agitation would be renewed ere long, and in view of this eventuality King Christian VIII had already conceived the idea of adopting the revision which he had decided upon, in behalf of merchants, by other modifications of the tariff, at periods more or less connected with each other, in order that the rights to levy might always be proportionate to the value of the goods liable to duty.

It is not the fault of the Danish government that the intention of King Christian VIII has not yet been carried out. In following the suggestions of that enlightened monarch, the government commenced, long ago, the preliminary labors necessary to a new revision of the tariff, but, at the period when the idea of the deceased king should have been realized, Denmark found herself, very much against her will, and by events which could not possibly have been foreseen, implicated in a war which necessarily absorbed all the attention of her government; and which did not admit of those sacrifices, inseparable from any reduction of the tariff actually in force. After the conclusion of the peace, the country found itself a prey to the inevitable consequences of the interior commotions which the war had only tended to foster, and to the difficulties by which it was thus surrounded there was soon added the present war between Russia, France and England.

If it depended on the Danish government, it would certainly not select, with a view to bringing the matter of sound dues again into discussion, a period like the present, when the two powers mostly interested in this matter find themselves placed in an attitude of antagonism. But the position into which said government has been thrown leaves it no other alternative.

Among all the governments, that of the United States of America is the only one that has ever called into question the rights of Denmark to collect the sound dues. It is but recently that the United States have expressed themselves directly in that sense ; for although it may be proper to acknowledge that those States have, on various occasions, in the course of latter years, caused it to be foreseen that they did not intend to follow, with respect to the sound dues, the international system generally established in Europe, the provision relative to those dues inserted in the convention of friendship, commerce and navigation concluded on the 26th of April, 1826, between Denmark and America, contains, nevertheless, the same as the analogous article of the treaties and conventions of the same character, between Denmark and other powers, rather a formal acknowledgment than a tendency to dispute the right in question.

In a note, dated the 14th of last April, the minister resident of the United States at Copenhagen denounced the aforesaid convention, which is the only written engagement entered into between Denmark and America that makes particular mention of the sound dues ; and in denouncing it said diplomatic agent expressed a hope that Denmark would, before the expiration of the treaty, *i. e.*, before the 14th of April, 1856, acknowledge the justice and the propriety of allowing

American vessels to pursue their commercial operations on the seas, without paying tribute to any one, and without being stopped by any power whatever. The object which the United States have had in view, in denouncing their convention of commerce with Denmark, has then been to exempt thereby American vessels from the sound dues. It is unnecessary to inquire, in this place, whether the accomplishment of that object is the logical consequence of the expiration of a convention which does not mention the dues in question, except for the purpose of securing to American vessels, in regard to the levying of the duties, a privileged treatment, instead of the non-privileged treatment which had been applied to them in former times. Denmark desires to avoid a discussion of this kind, and, besides, the steps taken by the United States have only been alluded to in this document, in order to specify the position into which, as it has been observed above, Denmark has been thrown.

This position has a double effect upon the determination of the Danish government. Because, after the denunciation of the convention of the 26th of April, 1826, or rather after the declaration, on the part of the United States, to exempt American vessels from the sound duties, the Danish government, if it decline, in view of this declaration, to confine itself to the reply which has been made to them, could not only not postpone taking the measures adopted to the circumstances, but it has even become problematical whether the measures which had been contemplated in regard to the sound dues, previous to the aforesaid declaration, would now suffice to avoid a conflict and complications, the consequence of which, by the force of circumstances, would probably overstep the limits of a discussion between Denmark and the United States.

If it only depended upon itself, the Danish government would determine upon a revision of the sound tariff; especially, because this measure could be adopted without the concurrence of any foreign power; and it is persuaded that a tariff reduced and regulated after the actual value of goods would be likely to satisfy the reasonable wishes of the trading public. But the declaration above mentioned not only shows that a revision would not satisfy a great power with which Denmark sincerely desires to preserve her general relations of good understanding, it has also become more than probable, in consequence of said declaration, that other powers, whose views and desires are equally entitled to be taken into consideration, would not be disposed to find in this measure a suitable expedient.

Under these circumstances the Danish government has determined to submit to the powers interested in the affair of the sound a proposition of an entirely different character. It hopes that the plan it is about to propose will prove as agreeable to the powers as it is certain that it will suit commercial navigation generally; it hopes, above all, that the United States of America will be pleased to consider this proceeding on the part of Denmark as an earnest of her desire to reconcile, as much as possible, her interests with those of America, and especially to avoid a painful discussion, and, it may be, a conflict with that country which it justly respects. In fact, as the Danish government does not think it ought to enter into such a discussion,

its principal motive in not confining itself to the revision which had been projected is, that it does not find this measure calculated to serve as a rejoinder to the steps taken by the United States.

Setting thus aside the project of a revision, without, however, abandoning the same, the Danish government starts upon the hypothesis that the other governments, considering the revision as not calculated to prevent the conflicts which it is the question to avoid, would have invited it to submit to them other propositions which, without infringing upon the right of Denmark, might be of a character to unite, in a higher degree, the suffrages of the parties interested.

If the plan of a revision be discarded, it is to declare, at least implicitly, that the only basis upon which negotiations would be entered into with Denmark ought to be that of a definite settlement of the affair of the sound, and the problem to be solved would then be to find an expedient which should cause the dues to cease entirely, without derogating on that account from the rights of the Danish crown. This double result could only be obtained by an capitalization of the dues, in order to free, at once and forever, the trading navigation from the payment of duties by means of a just compensation to Denmark.

This, then, is the plan of settlement which the Danish government submits to the consideration of the powers interested in the affair of the sound.

But an arrangement of this nature can only be realized by the simultaneous concurrence of all the respective powers. The formal and positive engagements existing between Denmark and the other powers relative to the sound dues do not admit of a special arrangement, in respect to this matter, between Denmark and another power.

Besides this condition, there is yet another which the Danish government regards as essential: it is that the affair in question shall be treated, not as a commercial or money transaction, but as a political matter. This would correspond with the history of the sound dues, with the part which these dues have played in the politics of the north of Europe; otherwise it were impossible to give to the negotiation the necessary scope and character in order that it may not be encumbered by questions of a secondary class, which may do very well in a purely commercial and fiscal arrangement, but not in an arrangement intended to serve as a complement to treaties of peace, and to transactions by which the system of political equilibrium has been regulated. Consequently the Danish government, in recommending its proposition to the kind consideration of the cabinets, also takes the liberty of requesting that they will be pleased to decide upon entering into negotiation with the Danish government as soon as possible, and to furnish their diplomatic agents at the Danish court with full powers and necessary instructions, or to send special commissioners to Copenhagen in order to devise and establish definitely a general agreement, both as regards the compensation to which Denmark might think herself entitled to claim as indemnity for the losses she would sustain by the cessation of the dues, and as to the mode of calculation to be used in order to ascertain and determine,

eventually, the just proportion in which each of the respective powers would have to contribute its quota.

It were desirable that this negotiation could be opened in the course of the month of November of the present year. In expressing this desire, the Danish government has in view, not only the urgency of the affair in question, as relates to Denmark, but also the consideration that several powers, and particularly those who, by their geographical position, might be very apt to find this term too close at hand, are so little interested in the sound dues, that they might not deem it necessary to be represented from the beginning of the eventual conferences, or might even prefer, perhaps, to cause themselves to be represented at the negotiation by some friendly power.

The choice of the city of Copenhagen as the seat of the negotiation has been occasioned by the circumstance that that city is the head quarter of all the administrative departments, and that it presents, consequently, very peculiar facilities for furnishing the materials and the information which might be desired in the interest of the negotiation.

The Danish government does by no means conceal from itself that the step it has determined upon taking is not of a character to be at first equally well received everywhere; but, while regretting that such may be the case, it nevertheless cherishes a hope that its propositions and its proceedings will not be judged until after they shall have been maturely examined, allowances being made for the position in which Denmark finds herself placed; it expects to meet with equal justice everywhere, and places its trust in the friendly disposition of which the powers have, on other occasions, given so many proofs.

On its own part, it will set to work with the best intentions, penetrated with a sincere desire to prove, by facts, that it has nothing else in view, by way of a final result, than an arrangement equally acceptable to all.

It only remains now to add some general remarks upon the manner of carrying out the plan of capitalization.

This is not the first time that this plan has been discussed; although it has never been formally proposed by the Danish government to the powers generally, it has, nevertheless, been the subject of conferences with several cabinets, and it may, therefore, be supposed that, in principle, it contains nothing which is new to the powers interested, or which requires detailed explanations in order to be understood. It does not seem necessary, neither, to submit, at this late hour, the various bases of capitalization among which a choice might be made, to a particular examination. The Danish government, although naturally bound to contribute its share to capitalization, does not wish to act in anticipation of the opinions which may be set afloat, or be promulgated, in the course of a negotiation to which the delegates of different States are participants. Its desire being simply to find out an expedient equally acceptable to all, provided that this object be accomplished, it gives no preference to any particular mode of proceeding.

It may not be superfluous, however, to present an outline of the

bases of capitalization which the Danish government would find mostly suited to the nature of the revenues which would have to be capitalized, and the adoption of which would render, in his opinion, the share to be contributed by each respective power the most proportionate to the pro rata of the duties levied upon their navigation and their commerce.

The duties of the sound and of the belts are partly levied upon vessels and partly upon cargoes. The latter duties are the veritable sound dues, while in the first category are principally included light-house duties, clearance duties, &c., &c. It was formerly intended to adopt, as an exclusive basis of capitalization, the nationality of vessels passing through the straits, but it is evident that this plan would be anything but just, seeing that the number of vessels belonging to a certain nation and passing through the sound and belts does in no way represent the quota which this nation actually contributes to the dues which are principally levied upon merchandise. This quota would be more in conformity to the true state of things if we were to adopt as a basis the quantity of merchandise which has passed through the sound and the belts. In adopting this basis, it might be agreed upon, for instance, that the respective States, Denmark included, should contribute, in proportion to the quantity of goods exported from their ports and imported into the Baltic, passing through the straits, or exported by the same way of the Baltic, to be imported into their ports, and *vice versa*; and by combining this basis with that of the nationality of the vessels, so that the compensation to be paid to Denmark might be calculated, as relates to the real sound dues, after the transit of goods, after the direct importations or exportations of each State, in merchandise, having passed the straits of the sound and of the belts; and with regard to light-house and other duties, after the flag, we might, perhaps, get a little nearer the just and equitable solution of a problem, the full settlement of which must always present the greatest difficulties.

The two tables accompanying this represent, one, the amount of duties collected at the sound and belts upon vessels of each respective State in the years 1851, 1852, and 1853, and the other the amount of duties collected upon the goods imported into the Baltic, or exported from that sea during the same year.

In placing these documents at the disposal of the cabinets, the Danish government ventures to express a hope that they will be treated with all the discretion which the delicate nature of the affair in question demands.

Mr. Marcy to Mr. Bedinger.

[No. 10.]

DEPARTMENT OF STATE,
Washington, November 3, 1855.

SIR: I proceed to communicate the President's reply to the proposition of the Danish government to the United States to join in a convention with other powers interested in the "sound dues," at Copenhagen, for the purpose of deliberating on that subject.

The friendly relations between Denmark and the United States have never been interrupted. The President cherishes an ardent disposition to sustain and strengthen them, and he would extremely regret that his determination to assert what he believes to be a just right, in an unexceptionable manner, should be regarded as an indication of disrespect for Denmark, or a want of a proper appreciation of her friendship. The exactions on foreign commerce at the entrance into the Baltic have been a productive source of revenue to Denmark, and it is very natural that she should struggle to retain it. If these exactions were founded in right, the United States would be the last power to interfere with her enjoyment of them.

It is not proposed to discuss the question of *right* in this communication, that has already been done, and the United States have adopted the conclusion that they are under no obligation arising from international law or treaty stipulation to yield to this claim. Denmark, on the contrary, has adopted a different and an opposite conclusion. It is readily conceded that both nations are anxious to arrive at a satisfactory solution of this vexed question. The subject interests several other powers—indeed, all maritime nations—and Denmark has invited them to be represented in a convention to assemble this month at Copenhagen, to consider a proposition to be offered by her to capitalize this revenue, and to apportion among commercial powers the sum to be paid for this renunciation of the present mode of collecting it. The United States have been respectfully invited to send a representative to the proposed convention.

Without at all questioning the fair intention of Denmark in proposing this measure, the President feels constrained by a sense of duty to decline the acceptance of this invitation. The convention is to assume, as the basis of its proceedings, the very right on the part of Denmark which the United States deny. It is assembled without any power to pass upon the right of Denmark to levy a contribution upon foreign commerce, but only authorized to adjust the share to be paid by each nation in lieu of the collections theretofore assessed upon their respective vessels and cargoes. The United States, however, contest their liability to pay any contribution whatever. The main question at issue between this government and that of Denmark is, not how much burden shall be borne by our commerce to the Baltic, but whether it shall be subjected to any burden at all. The proposed tribunal, it will be perceived, by the restriction upon its jurisdiction, is expressly precluded from deliberating and deciding upon the only serious question at issue between the United States and Denmark.

This is not, however, the only difficulty which prevents the President from consenting to be represented in the convention. In claiming an exemption of our ships and their cargoes from taxation by Denmark at the straits of the Baltic the President is vindicating a great national principle of extensive and various application. If yielded in one instance, it will be difficult to maintain it in others. If exactions upon our trade at the entrance into the Baltic were acquiesced in by the United States, similar exactions might, on the same principle, be demanded at the straits of Gibraltar and Messina, at the Dardanelles, and on all great navigable rivers whose upper

branches and tributaries are occupied by different independent powers.

The President cannot admit the competency of such a tribunal as that proposed by Denmark—as he would do if this government were represented therein—to deal with a principle of such vast importance to the whole commercial world.

There is another ground of objection to joining in the proposed convention quite as controlling as either of the foregoing. The government of the United States will never consent to the pretension that the *New World* is to be appropriated to adjust the political balance of the *Old*. It is clearly stated in the proposition which Denmark has submitted to the United States, that the convention is to act upon the question relative to the sound dues in connexion with the system of the European balance of power. It is more than intimated that the former is to be subordinated to the latter. Of the utility or wisdom of the political theory of the balance of power, in its application to the European family of nations, it is not proposed to express an opinion; but enough of its operations has been seen to impress upon this government a fixed determination to avoid being brought within its vortex. It has long been the cherished policy of this government to avoid such a dangerous complicity, and the President will not yield in any case to the slightest relaxation of it.

The following quotation from the Danish document submitting the proposition to this government will show the intended connexion and commixture of the two subjects:

“Besides this condition, there is still another, which the Danish government considers essential, namely, that the affair in question (the sound dues) be not considered as one of commerce or money, but as a political one. This would be in accordance with the history of the sound dues, and with the part which they have performed in the politics of the north of Europe. Otherwise, the negotiation would be deprived of that scope and character which are requisite to prevent its being fettered by questions of a secondary nature which may be pertinent to an arrangement merely commercial and fiscal, but not to one destined to serve as a complement to treaties of peace and compromises by which the system of the political balance has been adjusted.”

In passing upon the political question presented by this extract, this government cannot be induced to take any part; nor will it submit to have its international rights restricted or modified in subservience to the political theory with which the question as to the sound dues is intermixed in the Danish proposition.

In the paper submitted by Denmark to the consideration of this government there is an allusion to “*the sacrifices*” she has made for facilitating the navigation of foreign vessels through the Baltic straits. Any expenditure she has made for the safety and facility of this navigation may constitute an equitable claim upon foreign powers for remuneration to the extent they have participated in this advantage. The collections hitherto made have much more than compensated for these outlays. While the United States would not consent to purchase a right which they consider indubitable—the free

use of the Baltic sound—they would not hesitate to share liberally in compensating Denmark for any fair claim for expenses she may incur in improving and rendering safe the navigation of the sound. There is undoubtedly a necessity to keep up, at a considerable expense, light-houses, buoys, &c., for the security of this navigation. For such expenses in future, disconnected from a claim for surrendering a pretended right to control the navigation of the sound and belts, the United States are willing to enter into an arrangement with Denmark, and to pay a fair equivalent for any advantages to their commerce which may be derived from these outlays.

You are therefore instructed to invite Denmark to submit a proposition on this subject, and to assure her that it will receive due consideration from your government; but she must not expect that it will be favorably entertained if it should include, either expressly or impliedly, any compensation for the surrender of her pretended right to control the free use, by our ships, of the sound and the belts of the Baltic.

I am, sir, respectfully, your obedient servant, . W. L. MARCY.

HENRY BEDINGER, Esq.

Mr. Bille to Mr. Marcy.

[Translation.]

LEGATION OF DENMARK,
Washington, November 7, 1855.

The undersigned, chargé d'affaires to his Danish majesty, has the honor, by order of his government, to enclose to the Hon. W. L. Marcy, Secretary of State of the United States, the accompanying memorial, addressed by the government of his Danish majesty to the powers interested in the commerce and navigation of the Baltic sea, inviting them to enter, as soon as possible, into negotiation with Denmark, and to furnish their diplomatic agents at the court of Denmark with full powers and necessary instructions, or to send special commissioners to Copenhagen, to concert and establish, definitely, a general agreement upon the basis of the proposition made in the aforesaid memorial for the abolition of the sound dues.

This invitation is particularly addressed to the government of the United States as a pledge of the desire of the government of his Danish majesty to reconcile, as much as possible, its interest with those of America; and the undersigned flatters himself with the hope that it will be received in the same spirit by the government of the United States, and that it may thus bring about an understanding between the two countries upon the question of the sound.

He avails himself of this occasion to renew to the honorable Secretary of State of the United States the assurances of his high consideration.

TORBEN BILLE.

Mr. Marcy to Mr. Bille.

DEPARTMENT OF STATE,
Washington, November 9, 1855.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of Mr. Torben Bille's note of the 7th instant, communicating a copy of a joint memoir, addressed by the Danish government to the governments interested in the navigation and commerce of the Baltic, inviting them to send special representatives to Copenhagen, or to empower their established diplomatic agents, to agree upon some general arrangement on the basis of the propositions contained in the joint memoir for the abolition of the sound dues.

In reply, the undersigned has the honor herewith to transmit a copy of a dispatch addressed, on the 3d instant, to the minister of the United States at Copenhagen, which will acquaint Mr. Bille with the President's views in regard to the proposition of the Danish government.

The undersigned offers to Mr. Bille the assurance of his high consideration.

W. L. MARCY.

MR. TORBEN BILLE, &c., &c., &c., Washington, D. C.

CENTRAL AMERICAN AFFAIRS.

Mr. Marcy to Mr. Buchanan.

[Extract.]

[No. 2.]

DEPARTMENT OF STATE,
Washington, July 2, 1853.

SIR: * * * * *

Great Britain, for a long period, has had possession of a district of country on the shores of the Bay of Honduras, called "the Belize." The right she has to hold it is derived from a grant by Spain; and this right is limited to a single purpose, with an express prohibition against using it for any other. A possession so restricted as to its use could never be considered a British colony. While she confines herself to the boundaries specified in the treaties with Spain, in 1783 and 1786, and uses the district or country described only for the purposes stipulated therein, we have no right to complain that she is infringing our policy; but when she extends her occupancy by encroachments far beyond the prescribed bounds and changes its tenure by exercising over it civil authority, a very different character is given to this settlement; it then becomes a new colony on this continent.

Since the acquisition of California, Great Britain has manifested a more matured design to change this Spanish license to cut dye-wood

and mahogany at the Belize into a British dominion. The object of such change cannot be misunderstood, nor will it be disregarded by this government. The character of the British settlement at the Belize is explicitly shown by an authority which will not be controverted or questioned by the government of Great Britain. This authority is no other than the parliament of the United Kingdom. In two acts, one passed in 1817, and the other in 1819, it is admitted that the Belize is not within the British dominions. In these acts provision is made for the punishment of crimes committed at Belize which otherwise could not be punished by any existing law, because Belize, as expressly alleged, was not a British dominion. In 1826, Great Britain renewed, in her treaty with Mexico, the special grant made to her by Spain in the treaties of 1783 and 1786, to enter into and occupy the Belize upon the same terms and with the same restrictions as those imposed upon her by Spain. The United States, while they concede that Great Britain has rights in the Belize, positively deny that the Belize is a British province, or any part of the British dominions; and in maintaining the policy referred to, they are bound to resist any attempt to convert it into a British colony.

The protectorate which Great Britain has assumed over the Mosquito Indians is a most palpable infringement of her treaties with Spain, to which reference has just been made; and the authority she is there exercising, under pretence of this protectorate, is in derogation of the sovereign rights of several of the Central American States, and contrary to the manifest spirit and intention of the treaty of April 19, 1850, with the United States.

Though, ostensibly, the direct object of the Clayton and Bulwer treaty was to guarantee the free and common use of the contemplated ship canal across the Isthmus of Darien, and to secure such use to all nations by mutual treaty stipulations to that effect, there were other and highly important objects sought to be accomplished by that convention. The stipulation regarded most of all, by the United States, is that for discontinuing the use of her assumed protectorate of the Mosquito Indians, and with it the removal of all pretext whatever for interfering with the territorial arrangements which the Central American States may wish to make among themselves. It was the intention, as it is obviously the import, of the treaty of April 19, 1850, to place Great Britain under an obligation to cease her interpositions in the affairs of Central America, and to confine herself to the enjoyment of her limited rights in the Belize. She has, by this treaty of 1850, obligated herself not to occupy or colonize any part of Central America, or to exercise any dominion therein. Notwithstanding these stipulations, she still asserts the right to hold possession of, and to exercise control over large districts of that country and important islands in the Bay of Honduras, the unquestionable appendages of the Central American States. This jurisdiction is not less mischievous in its effects, nor less objectionable to us, because it is covertly exercised (partly, at least) in the name of a miserable tribe of Indians, who have, in reality, no political organization, no actual government, not even the semblance of one, except that which is created by British authority and upheld by British power.

This anomalous state of things is exceedingly annoying to the States of Central America, and but little less so to the United States; for through the Bay of Honduras and across some of these States lies one of the most desirable routes to our possessions on the Pacific. This interference, it will be recollected, did not assume a marked character until after our acquisition of California.

Great Britain should be frankly assured that the policy to which I have alluded, and to which the United States mean to adhere, is exclusively political. As relates to commerce, this government neither aims at nor desires any advantage, in our intercourse with the nations on this continent, which it would not willingly see extended to the whole world.

The object which it is hoped you may be able to accomplish is to induce Great Britain to withdraw from all control over the territories and islands of Central America, and, if possible, over the Belize also, and to abstain from intermeddling with the political affairs of the governments and people in that region of the world. This object is the more earnestly desired by the United States, as it is apparent that the tendency of events in that quarter is to give a foothold to British power there, in contravention of the policy which this government is resolved to sustain.

With your ample knowledge of the facts, it is believed that it will be easy for you to satisfy the government of Great Britain that it has no right to intervene in the political affairs of Central America, founded upon any dominion she can fairly claim in any part thereof, and that no obligation of duty or interest is imposed upon her to become a volunteer in the matter.

It is true she has some rights, as I have before stated, in the Belize, but when restricted to proper limits, no part of it is in Central America. These rights are, however, very few, as will be perceived by the second and third articles of the treaty between her and Spain, dated the 14th of July, 1786. The second article defines the extent of the district upon which British subjects may enter for the purposes specified in the third article, which contains an express admission that the Belize then belonged to the crown of Spain; and in it Great Britain stipulates in no ambiguous terms that her subjects, who have the right to enter it to cut dye-wood and mahogany, shall not use this limited right as a pretext for establishing "in that country any plantation of sugar, coffee, cacao, or other kind of articles, or any kind of fabric or manufacture, by means of mills or machinery, whatsoever," with the exception of saw mills for cutting the wood which they have permission to take from that district of country. To enter into the country upon such conditions for the single purpose granted, the British right cannot be well questioned; but this right is understood to be now of very little value, and, possibly, as a matter of interest and good policy, Great Britain may be willing to renounce it entirely; but her pretensions beyond this right cannot be regarded in any other light than as encroachments which ought to be abandoned. To show that her privilege is thus circumscribed, nothing more is necessary than to read the first article of the treaty to which I have alluded. Though

a labored attempt has been made to pervert it, the language is too precise and explicit to give plausibility to such an effort.

That article stipulates (I quote the language of the treaty) that "his Britannic majesty's subjects, and the other colonists who have hitherto enjoyed the protection of England, shall evacuate the country of the Mosquitos, as well as the continent in general and the islands adjacent, without exception, situated beyond the line hereinafter described as what ought to be the frontier or the extent of country granted by his Catholic majesty to the English for the uses specified in the 3d article of the present convention, and in addition to the country already granted to them (the Belize) in virtue of the stipulations agreed upon by the commissioners of the two crowns in 1783."

After reading the treaties with Spain of 1783 and 1786, in which Great Britain renounces, in terms the most explicit and comprehensive in the English language, all right to any territorial possessions in any part of Central America, all sovereign rights in behalf of the Mosquitos, and all claim to a protectorate over that horde of savages, it would seem to be useless to go beyond those treaties for facts to explode the pretensions she now asserts for herself in regard to this protectorate. Clear as both of these treaties are against such pretensions, it is nevertheless true that one of her Britannic majesty's late principal secretaries of state for foreign affairs, Lord Palmerston, has endeavored to pervert, and by construction to render them meaningless, in the same manner that her present secretary attempts to render ineffective the treaty with the United States of the 19th of April, 1850. The boldness of the attempt with respect to the treaty of 1786, and its ill success, is shown by a proceeding in relation thereto in the British parliament within one year after it was concluded.

The record of this proceeding is not found in the more general repository of parliamentary debates, "Hansard's Collection," and it could not have been in the recollection of Lord Palmerston when he wrote his famous letter upon this treaty and that of 1783, addressed to Señor Castillon, in 1849. As this proceeding shows the groundlessness of the claim then, as now, set up to this protectorate, and all other British claims in Central America, I deem it proper to present herein a succinct account of it,

On the 26th of March, 1787, a motion was made in the House of Peers by Lord Rawdon, "that the terms of the convention of July 14th, 1786, do not meet the favorable opinion of this House." On this motion a long debate ensued between Lords Rawdon, Carlisle, Stormant, Hawke, and Porchester, in support of the motion, and the Duke of Manchester, who negotiated the treaty of 1783, the Marquis of Carmarthen, secretary for foreign affairs, who negotiated the convention of 1786, and the lord chancellor, the celebrated Thurlow.

Lord Rawdon, on introducing his motion, stated "that the Mosquito shore, given up to Spain by the treaty of 1786, had been for more than a century in the possession of Great Britain; that it consisted of a territory of between four and five hundred miles in length, and was nearly of the depth of one hundred miles inland from the sea; that there were on it various settlements, and that the residents, at the time of its cession, consisted of near one thousand five hundred British

subjects, including whites, male and female, persons of mixed color, and their slaves; that a regular form of government had been established on it many years since consisting of a council, &c.; that it was a settlement of great value and importance to this country, and that our claim to it was as good as our claim to the island of Jamaica." In support of these assertions, his lordship produced various documents from the governor and assembly of the island of Jamaica and other corroborating papers. In exchange for this valuable settlement, he said, the British ministers had contented themselves with accepting a narrow strip of territory of between eleven and twelve miles in extent only. Lord Rawdon then proceeded to censure the ministers, especially for the fourteenth article of the convention, by which the King of Spain promises not to exercise any act of severity against the Mosquitos inhabiting in part the countries which are to be evacuated on account of the connexions which may have subsisted between the said Indians and the English, which his lordship declared to be "a most degrading humiliation of Great Britain."

The Earl of Carlisle, in the same manner, spoke of the Mosquito shore as a settlement that had been in the undisturbed possession of Great Britain for more than a century. He considered the ministers especially censurable "for having hung up the humiliation of Great Britain in every court in Europe, in an article so degrading to the national honor as the 14th article of the convention, because there could be no secret reason for such a mortifying sacrifice of the spirit of the country." Lord Stormant, likewise, particularly enlarged on the 14th article as an unnecessary degradation of the country; and he said "the Mosquito Indians had proved themselves faithful allies, and had invariably adhered to the interests of Great Britain." He contended that "they were an independent people, and that we had no right whatever to deliver them over to the Spanish yoke."

On the part of the ministry, the Duke of Manchester and the Marquis of Carmarthen said very little more than in support of their own personal agency in the treaty of 1783, and the convention of 1786; the defence being left to the lord chancellor, the champion of the administration, who left the wool-sack and in a most masterly manner answered the various arguments that had been urged in support of the motion.

He began with declaring that "he had expected to have heard the question spoken to with that degree of explicitness and candor that belonged to it. He had looked for more accuracy of description, in point of geographical character, than had been attempted. The Mosquito shore had been talked of as a tract of country extending between four and five hundred miles, without the smallest mention of the swamps and morasses with which it was interspersed, nor any allowance for the parts of it that were actually impossible to be either cultivated or inhabited. With regard to settlements, it would be imagined, by those who were strangers to the fact, that there had been a regular government, a regular council, and established laws peculiar to the territory; when the fact was, there neither had existed one nor the other." His lordship went into the history of the settlement, tracing it down from the year 1650 to the year 1777, mention-

ing Lord Godolphin's treaty, and all its circumstances, and deducing arguments from each fact he mentioned to prove that the Mosquito shore never had been fairly deemed to be a British settlement; but that a detachment of soldiers had been landed from the island of Jamaica, who had erected fortifications, which had been afterwards abandoned by order of the government at home. He instanced the transactions on the subject of the peace of Paris, in 1763, when Governor Lyttleton governed Jamaica, and enlarged upon them to show that this country, by the peace of Paris, had renounced whatever claim she might before that period have fancied she had a right to maintain; and had given a fresh proof of her having done so, in the year 1777, when Lord George Germaine, the secretary of the American department, sent out Mr. Lawrie to the Mosquito shore to see that the stipulations of that treaty between this country and Spain were carried fully into execution. His lordship enlarged very much on these particulars; and after enforcing and applying them to the arguments that had been urged in defence of the motion, proceeded to notice what Lord Carlisle had said on the delicacy of questions of that sort, declaring "that he had been happy to hear the matter so judiciously observed upon. His lordship said he should have been extremely glad if the whole grounds of the transactions could, with prudence and propriety, have been gone into; but as that could not be done, he must meet the matter as he found it. With regard to the degradation of the country that the 14th article was pretended to hold out, he denied the fact. The Mosquitos were not our allies, they were not a people we were bound by treaty to protect, nor were there anything like the number of British subjects there that had been stated; the number having been, according to the last report from thence, only 120 men, and 16 women. The fact was, we had procured (by contract, if the noble lord pleased) a stipulation that the king of Spain would not punish those British subjects, and the Mosquitos, who had possessed themselves improperly of the rights belonging to the Spanish crown, and, in consequence of such irregular possession, had persisted for a course of time, but with frequent interruption, in the enjoyment of those rights. His lordship repelled the argument that the settlement was a regular and legal settlement with some sort of indignation; and, so far from agreeing, as had been contended, that we had uniformly remained in the quiet and unquestionable possession of our claim to the territory, he called upon the noble Viscount Stormont to declare, as a man of honor, whether he did not know the contrary."

The purport of Lord Stormont's answer is not given. Lord Rawdon, however, defended his motion, and produced some documents by General Dalling, when Governor of Jamaica, to prove that a superintendent had been sent over to the settlement on the Mosquito shore, at that time, with a view to form a government.

The lord chancellor replied that he was aware of the application for a charter; but he wished the noble lord had mentioned the answer that was given to that application when it was made. His lordship said "the having sent a superintendent over with a view to the establishment of a regular council, &c., did not, by any means, prove that

the government at home had countenanced the scheme. He referred the noble lord to what had been before stated relative to the conduct of Governor Lyttleton, in 1763, and of Lord George Germaine, in 1777, as an ample proof that, let what would have been the state of the Mosquito shore, or the opinion of this country, in 1744 or 1748, the idea of settling there had been changed completely since, and the fortifications recently abandoned and withdrawn." After some further debate, (the particulars of which are not given,) the question was taken and decided against Lord Rawdon's motion to condemn the convention by a vote of fifty-three to seventeen.*

Nothing could be more fatal—not the treaty of 1786 itself—to the pretensions set up by Great Britain for herself and the Mosquito Indians than this debate and the vote on the motion to censure the treaty of 1786. The lords who supported the motion of censure on the administration, for having made the treaty, assert, it is true, that Great Britain and her ally, the Mosquitos, had rights before the treaty of 1786, but admit that these rights were given up by that treaty. This position destroys the pretensions of Great Britain, both for herself and the Mosquitos, of having rights there after that treaty. On the other hand, Lord Thurlow, in his defence of the administration, denied all claims on the part of the Mosquito Indians, as well as on the part of Great Britain, except what was given by the clause relative to the Belize. His position, which was concurred in by nearly the whole house of lords, is therefore equally fatal to these pretensions of the British government. In one view or the other, the vote of the whole house of lords is an acknowledgment that Great Britain, after 1786, had no rights whatever in Central America, or in that vicinity, except the limited usufruct to a small tract of country—the Belize—not claimed as a part of Central America, and that the Mosquito Indians had no sovereign rights to any territory whatever.

The acts of parliament show that Great Britain had no dominion there—none even in the Belize—and by four treaties, three with Spain and one with the United States, (that of the 19th of April, 1850,) she has precluded herself from interposing in the affairs of Central America. I therefore trust you will encounter but little difficulty in inducing her to abandon unfounded pretensions, and to respect these solemn treaty stipulations.

The whole Central American question, so far as Great Britain has seen fit to connect herself with it, is entirely confided to your management, under such instructions as you may from time to time desire, or such as the President may consider himself called upon to furnish, in the progress of the discussions which may arise thereon.

* * * * *

I am sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c.

* This debate is found more at large in Parliamentary Register, 1787, vol. 22.

Mr. Marcy to Mr. Buchanan.

[No. 11.]

DEPARTMENT OF STATE,
Washington, September 12, 1853.

SIR: Your two dispatches, No. 3, (July 27,) and No. 4, (August 24,) have been received. I herewith transmit to you the President's full power to conclude a treaty with Great Britain in regard to the Central American questions. A copy of the dispatch of her majesty's principal secretary of state for foreign affairs to Mr. Crampton, containing the "overtures," &c., dated January 19, 1853, was forwarded to you from this department on the 30th of July last. I do not find any other document on file in the State Department containing overtures, &c., on the Central American questions, but it is probable that in the conferences between my predecessors and the British minister, in relation to the Mosquito protectorate and the affairs of San Juan, (Greytown,) overtures may have been suggested by him.

The general views of the President in regard to Central American affairs were presented in the first instructions with which you were furnished. The President did not deem it necessary to be more explicit as to the points of difference which might arise until he was fully possessed of the views of her majesty's government. The main object to be accomplished is to induce the British government to withdraw from all interference in the political affairs of Central American States and the adjacent islands.

It is quite evident, judging by communications received from her majesty's government, particularly in regard to the difficulties at San Juan de Nicaragua, that a difference of opinion between it and the United States exists as to the construction and effect of the Clayton and Bulwer treaty, but how wide that difference is, and on what particular points it is raised, have not yet been very clearly disclosed. This difference will be, as the President presumes, fully known when these matters shall be brought by you under the consideration of the British government.

Your intimate knowledge of the subject in all its bearings, and of the general views of the President which are embodied in your instructions, will enable you to cover the whole American ground in opening the negotiation. How much will be conceded and how much contested by Great Britain remains to be seen. Until points of difference are discussed, and the views opposed to those here entertained are fully considered, the President does not deem it advisable to fix on *ultimata*. These, if desired in a more advanced state of the negotiation, will be furnished.

In relation to the Belize I believe your instructions are sufficiently explicit. To the territorial extent, and for the limited uses, described in her treaty of 1786 with Spain, Great Britain has a right to continue in possession of that country. Though the United States cannot claim as a matter of right that she shall altogether withdraw from Belize, it is a very important object to prevail on her to give up that territory, now regarded as of very little value. This government is not aware that Great Britain claims to have full sovereignty over it; but, if she does, the United States would contest that claim, and

regard the assertion of it as an infringement of the Monroe doctrine—a doctrine which it is the policy of the President to maintain.

I believe Great Britain has never defined the character of her claim to possess what is called “the colony of the Bay Islands.” It does not appear to be one of her organized colonies. She has not, in explicit language, claimed sovereignty over it, though her acts have indicated such a purpose. Whatever may have been her rights or pretension to rights over this colony, they were all given up, according to the view here taken of the subject, by the Clayton and Bulwer treaty.

The President cannot conceive that Great Britain can have any plausible grounds for excepting this possession from the operation of that treaty, and he is quite sure she can allege none to which he could concede; yet he thinks it the wiser course to give her an opportunity to explain her views thereon before presenting a solemn and formal protest against her further occupancy of that colony. The President expects that you will treat this subject in such a manner as to leave no doubt on the minds of her majesty’s ministers that the abandonment of that colony will be insisted on by the United States.

It is presumed that the only part of that colony to which England will be disposed to attach much value, or have any inducement to retain, is the island of Ruatan. From an intimation made to me, it may be that she will take the position that this island does not belong to any of the Central American States, but it is to be regarded in the same condition as one of the West India islands. By reference to the treaties between Great Britain and Spain, you will find this island clearly recognized as a Spanish possession, and a part of the old viceroyalty of Guatemala.

Should an attempt be made to distinguish between this island and the States of Central America, upon the ground above suggested, it is probable that more full information than we now have in regard to that subject may be obtained from, or through, Mr. Molina, the diplomatic representative near this government from Costa Rica and Guatemala. On receiving an intimation from you that further information thereon may be necessary, every effort will be here made to procure and forward it to you.

A copy of the convention of the 8th of February last will be forwarded to you.

With this will be sent a copy of the Congressional Globe, if it can be procured, containing the debates of the last session of Congress, and the called session of the Senate.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

Mr. Marcy to Mr. Buchanan.

[No. 21.]

DEPARTMENT OF STATE,
Washington, December 1, 1853.

SIR: Your dispatch (No. 16) of the 12th ultimo, came to hand yes-

terday, and was laid before the President. He approves entirely of the suggestion made by you to Lord Clarendon to place the Mosquito Indians in the same relation to Nicaragua that our own Indians sustain to the United States, since it is in strict accordance with the views of this government on the subject, as will be seen from the following extract from the department's instructions to Mr. Borland, under date of the 17th of June last:

"Admitting these Indians to be what the United States and Nicaragua regard them—a savage tribe, having only possessory rights to the country they occupy, and not the sovereignty of it—they cannot fairly be required to yield up their actual possessions without some compensation. Might not this most troublesome element in this Central American question be removed by Nicaragua, in a way just in itself, and entirely compatible with her national honor? Let her arrange this matter as we arrange those of the same character with the Indian tribes inhabiting portions of our own territory. I think it would be proper for you to urge upon Nicaragua this view of the subject. An inconsiderable annuity secured to the Mosquitos for their right of occupancy to the country in their possession given up to Nicaragua, would, I believe, cause the British government to abandon their protectorate over them; assurance of this is given to the United States. Such a course would not, in my opinion, be an acknowledgment, directly or by implication, of the rightful interference by the government of Great Britain in the Mosquito question."

The sequel of the agreement between Messrs. Webster and Cramp-ton, about which enquiry is made by you, was an instruction to Mr. Kerr, the chargé d'affaires of the United States to Nicaragua, directing him to present the agreement to the Nicaraguan government for its assent thereto. He complied with the instruction, but the application was rejected. Mr. Walsh was also sent to the republic of Costa Rica, as a special agent of this government, with instructions to present the agreement to the consideration of the government of that republic. This he did, and it was accepted by the Costa Rican government.

The department has no spare copy of the document containing the letter of Lord Palmerston to Mr. Castillon, asked for by you; but if you will turn to the tenth volume of Executive Documents, 1st session 31st Congress, page 304, the letter referred to may there be found.

As it regards your enquiry about the number of the Mosquito Indians, I am unable to ascertain, with any degree of certainty, what that number is.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

Mr. Buchanan to Mr. Marcy.

[Extracts.]

[No. 19.]

LEGATION OF THE UNITED STATES,
London, January 5, 1854.

SIR: I have the honor to acknowledge the receipt of your dispatches Nos. 20, 21, 22, and 23, of 19th November, and 1st, 3d, and 16th December, respectively.

* * * * *

I have not deemed it advisable to press the Central American negotiation since my last interview with Lord Clarendon in November. The causes for this delay have been, the unsettled condition of the British cabinet in consequence of the resignation of Lord Palmerston, and his subsequent withdrawal of that resignation, the state of the Russo-Turkish question, to which the ministry have been devoting themselves fruitlessly, as it is now believed, to the task of preventing a war between Great Britain and Russia, and the desire which I felt to receive your instructions in regard to the suggestion which I had made to Lord Clarendon, that the Mosquito Indians might be placed in the same relation to Nicaragua that our own Indians sustain to the United States. Your satisfactory dispatch (No. 21) has removed all doubts on this latter subject.

I have reason to believe that my omission to press the Central American questions at the present most important crisis between Great Britain and Russia, has been properly appreciated by Lord Clarendon.

On Monday last, however, I addressed his lordship a note, requesting an interview, to which I have received his answer, appointing to-morrow (Friday) at half-past three o'clock for our meeting, too late for the next steamer. Indeed, I had reason to expect that ere this he would himself have taken the initiative, and have invited me to an interview.

I am, sir, &c.,

JAMES BUCHANAN.

Hon. W. L. MARCY, &c., &c., &c., *Washington.*

Mr. Buchanan to Mr. Marcy.

[Extracts.]

[No. 20.]

LEGATION OF THE UNITED STATES,
London, January 10, 1854.

SIR: I had a long interview on Friday last with Lord Clarendon at the foreign office. We had much desultory and pleasant conversation on various topics; but in my report I shall confine myself to the substance of what passed between us in relation to the pending questions between the two governments.

* * * * *

After our conversation had ended on the fishery and reciprocity

questions, he informed me that he had presented my suggestion to the cabinet, that Nicaragua should treat the Mosquitos within her limits as Great Britain and the United States treated their own Indians, under similar circumstances; and they thought, as he had done, that it was highly reasonable. I told him I was glad to learn this, and was happy to inform him I could now state, from advices received by the last steamer, that you were of the same opinion.

He then asked, in what manner shall we carry this into effect? and intimated that the appointment of commissioners by the two governments for this purpose might be the best mode of proceeding. I told him I was not then prepared to express an opinion on the subject, but would take it into consideration. The proportion of territory to be occupied by the Mosquitos until their title was extinguished by Nicaragua ought to depend very much upon their number. Lord John Russell had stated this to be thirty or forty thousand, whilst from my information, which was, however, vague, it did not exceed as many hundreds. He replied, that Mr. Green, the British consul and agent at Bluefields, was now in London, and had mentioned to him that my estimate of their number was probably correct in regard to the Mosquitos north of the San Juan, though there might be a thousand more; but that the Mosquitos south of the San Juan were so numerous as to render Lord John's estimate of the whole not excessive. I told him I had never heard that any portion of this tribe resided in Costa Rica, and I thought there must be some mistake in the statement of Mr. Green. He then asked what we should do with the grants of land which had been made to individuals by the king of the Mosquitos; and I answered that under the law of all European nations since the discovery of America, as well as by the uniform practice both of Great Britain and the United States, such grants made by Indians were absolutely void. I also stated to him, somewhat in detail, the decision on this point made by the Supreme Court of the United States in the case of *Johnson vs. McIntosh*, (8 Wheaton, 543,) to which he appeared to listen with marked attention.

After this we had a discursive and rambling conversation, embracing the Ruatan and Belize questions, the Clayton and Bulwer treaty, and several other matters which I do not propose to detail. In the course of it he stated distinctly that this treaty was, in their opinion, entirely prospective in its operation, and did not require them to abandon any of their possessions in Central America. At this I expressed my astonishment, and we discussed the point in an earnest but good natured manner.

In regard to Ruatan, he said he had the papers in a box before him to prove their title to that island; but it would consume too much time to read them, and therefore he had thought of submitting his views to me respecting it in writing. This suggestion pleased me much, as I desired to present to his lordship a memorandum which I had prepared, embracing our whole case in Central America. I told him, therefore, I should be much gratified to receive his views in writing; and at the same time informed him, that without changing our mode of personal conference, I desired also to deliver him a written memorandum to which he might at all times refer, containing a

statement of the case on the part of my government. With this he expressed himself to be much pleased. I am sorry that I shall not be able to furnish you a copy of this memorandum by the present steamer.

One incident may be worth particular mention. In the course of the conversation he said the Bay Islands were but of little value; but if British honor required their retention they could never be surrendered. I made some playful remark in reference to the idea of British honor being involved in so small an affair. He then became quite earnest on the point of honor, which might, he observed, be as much involved in subjects of little as of great value. To this I assented, but said, that when the construction of a treaty was really doubtful, which I did not admit upon the present occasion, and when the friendly relations between two great countries were at stake, there could in such a case be no point of honor involved in the one yielding to the other what was admitted to be of but little value. He replied that in this view of the case I might be correct.

In regard to Belize, there was not the least appearance of yielding on the part of his lordship. He repudiated the idea, with some warmth, that any person should suppose they had surrendered this settlement under the Clayton and Bulwer treaty.

* * * * *

The time has therefore arrived when it becomes indispensable that I should receive the Presidents instructions on this point. In forming his opinion, it may be worthy of consideration, that the British have been in the actual possession of Belize, under treaty, for more than seventy years; that no period was fixed when they should withdraw from this possession; that Spain declared war against Great Britain on the 11th October, 1796; that an attack was made from Yucatan on Belize in 1798, which was repelled by the British settlers; and that for nearly a quarter of a century it has been under a regular colonial government, without attracting the notice of the United States.

In any event, I shall do my whole duty in first urging their withdrawal from the whole colony; and if that should not prove successful, then from the portion of it south of the Sibun. But what am I to do in case I shall be unsuccessful in both or either of these particulars? I shall await your answer with considerable anxiety.

When I pointed out to Lord Clarendon on Bailey's map, which lay before him, the extent of the encroachments which British settlers had made beyond the treaty limits, his only answer was, in a tone of pleasantry, that we ought not to complain of encroachments, and instanced our acquisition of Texas. I then took occasion to give him information on this subject, for which he thanked me, and said that he had never understood it before.

Returning again to the Mosquitos, am I to consent that they shall continue in the occupation of the territory assigned to them by the agreement between Messrs. Webster and Crampton, of April 30, 1852, until their title shall be extinguished by Nicaragua? Whether this assignment be unreasonable or not would depend much upon their

number. You can doubtless ascertain at Washington whether any considerable number of the tribe inhabit the country south of the San Juan, as stated by Mr. Green.

In regard to the Mosquitos, the question of the greatest difficulty would seem to be, in what manner can Great Britain and the United States interfere, as suggested by Lord Clarendon, to prevent Nicaragua from depriving these Indians of their right of occupancy without a fair equivalent. It would seem that this could be best accomplished by a treaty with Nicaragua. The whole detail presents embarrassments which will be annoying without the consent of Nicaragua, and yet I am persuaded the British government care little or nothing for this consent. They have evidently formed a very unfavorable opinion of that State, and greatly prefer Costa Rica. It would appear, from what his lordship informed me, Mr. Marcoleta had told Mr. Crampton that Costa Rica is jealous of the influence of Nicaragua with the United States.

You would naturally desire to know something of his Majesty the present king of the Mosquitos. I had, on a former occasion, stated to Lord Clarendon that he was drunken and worthless. At this interview his lordship informed me I was mistaken; that the present king was a decent and well behaved youth of between twenty-two and twenty-three, who resided in Mr. Green's family, though he believed his late Majesty, to whom I had doubtless referred, was a bad fellow.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WM. L. MARCY,
Secretary of State.

Statement for the Earl of Clarendon.

When the negotiations commenced, which resulted in the conclusion of the Clayton and Bulwer convention of April 19, 1850, the British government were in possession of the whole extensive coast of Central America, sweeping round from the Rio Hondo to the port and harbor of San Juan de Nicaragua, except that portion [of] it between the Sarstoon and Cape Honduras, together with the adjacent Honduras island of Ruatan.

The government of the United States seriously contested the claim of Great Britain to any of these possessions, with the single exception of that part of the Belize settlement lying between the Rio Hondo and the Sebun, the usufruct of which, for a special purpose and with a careful reservation of his sovereign rights over it, had been granted by the king of Spain to the British under the convention of 1786.

The progress of events had rendered Central America an object of special interest to all the commercial nations of the world, on account of the railroads and canals then proposed to be constructed through the isthmus, for the purpose of uniting the Atlantic and Pacific oceans.

Great Britain and the United States, both having large and valua-

ble possessions on the shores of the Pacific and an extensive trade with the countries beyond, it was natural that the one should desire to prevent the other from being placed in a position to exercise exclusive control, in peace or in war, over any of the grand thoroughfares between the two oceans. This was a main feature of the policy which dictated the Clayton and Bulwer convention. To place the two nations on an exact equality and thus to remove all causes of mutual jealousy, each of them agreed by this convention never to occupy, fortify, or exercise dominion over any portion of Central America. Both parties adopted this self-denying ordinance for the purpose of terminating serious misunderstandings then existing between them, which might have endangered their friendly relations.

Whether the United States acted wisely or not in relinquishing their right as an independent nation, to acquire territory in a region on their own continent, which may become necessary for the security of their communication with their important and valuable possessions on the Pacific, is another and a different question. But they have concluded the convention; their faith is pledged, and under such circumstances they never look behind the record.

The language of the convention is, properly, mutual, though in regard to the United States it can only restrain them from making future acquisitions, because it is well known that, in point of fact, they were not in the occupation of a foot of territory in Central America. In reference to Great Britain the case is different, and the language applies not only to the future, but the past; because she was then in the actual exercise of dominion over a very large portion of the eastern coast of Central America. Whilst, therefore, the United States has no occupancy to abandon, under the convention, Great Britain had extensive possessions to restore to the States of Guatemala, Honduras, and Nicaragua.

And yet the British government, up till the present moment, have not deemed it proper to take the first step towards the performance of their obligations under this convention. They are still in the actual occupancy of nearly the whole coast of Central America, including the island of Ruatan, in the very same manner that they were before its conclusion. This delay, on their part, surely cannot proceed from any obscurity in the language of the convention.

The first article declares that the government of the United States and Great Britain agree, that neither will "occupy or fortify or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America." And from abundant caution in view of the Mosquito protectorate, the article proceeds as follows: "Nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any state or people for the purpose of * * * occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same." This rendered into plain English is, that the parties shall not exercise dominion over any part of Central America, either directly or indirectly, either by themselves or in the name of others.

It has been said that the first article of the convention acknowledged, by implication, the right of Great Britain to the Mosquito protectorate—a right which the United States have always contested and resisted; a right which would continue to Great Britain that entire control over the Nicaragua ship canal, and the other avenues of communication between the two oceans, which it was the very object of the convention to abolish, and to defeat that equality between the parties in Central America which was its special purpose to secure. Surely, the United States could never have been guilty of such a suicidal absurdity.

But, admitting, for the sake of argument merely, that the United States have acknowledged the existence of this protectorate, it would be difficult, restricted in its use as it has been by the convention, to conceive for what object of the least importance it could be employed. It assuredly could not be for the purpose of "occupying" "the Mosquito coast," or "of assuming or exercising dominion over the same," because this has been expressly prohibited by the convention.

Great Britain has not even retired from the island of Ruatan, in obedience to the convention. Here no question can possibly arise from any alleged Mosquito protectorate. This is clearly a Central American island, belonging to the State of Honduras, and but thirty miles distant from her port of Truxillo. If the convention plainly embraces any object whatever, this must be Ruatan. And yet Great Britain has not only continued to occupy this island, but, since the date of the convention, she has actually established a colonial government over it. And not over it alone, but, adding thereto five other neighboring islands on the Central American coast, has converted them all into the British colony of the "Bay Islands." Public sentiment is quite unanimous, in the United States, that the establishment of this colony is a palpable violation both of the letter and spirit of the Clayton and Bulwer convention.

Ruatan is well known to be an island of great value and importance, on account of its excellent harbors, which are rare along that coast. Indeed, it has been described by a Spanish author "as the key of the Bay of Honduras, and the focus of the trade of the neighboring countries." Such is its commanding geographical position that Great Britain, in possession of it, could completely arrest the trade of the United States in its passage to and from the isthmus. In vain may the convention have prohibited Great Britain from erecting or maintaining any fortifications commanding the Nicaragua canal, or in other portions of Central America, if she shall continue to exercise dominion over "the Bay Islands."

The United States now only ask that this convention shall be faithfully executed by both parties. They wish that every avenue of communication across the isthmus shall be opened, not merely for their own benefit, but for that of Great Britain and the whole world. In this respect they would not, if they could, acquire any peculiar advantages, because these might arouse the jealousy and distrust of other nations.

The rights and duties of the respective parties have been ascertained and determined by the convention itself; but as the justice of

the previous claim of Great Britain to her possessions in Central America has been since asserted in high quarters, it may not be improper to present the views of the government of the United States upon this subject.

It need scarcely be repeated that the United States have always denied the validity of this claim. They believe that Great Britain has surrendered nothing under the convention which she would not voluntarily have done, from her own magnanimity and sense of justice, as soon as the question was brought home to her serious consideration. It would be a vain labor to trace the history of the connexion of Great Britain with the Mosquito shore, and other portions of Central America, previous to her treaties with Spain of 1783 and 1786. This connexion doubtless originated from her desire to break down the monopoly of trade which Spain so jealously enforced with her American colonies, and to introduce into them British manufactures. The attempts of Great Britain to accomplish this object were pertinaciously resisted by Spain, and became the source of continual difficulties between the two nations. After a long period of strife, these were happily terminated by the treaties of 1783 and 1786, in as clear and explicit language as was ever employed on any similar occasion; and the history of the time renders the meaning of this language, if possible, still more clear and explicit.

The sixth article of the treaty of peace of September 3, 1783, was very distasteful to the king and cabinet of Great Britain. This abundantly appears from Lord John Russell's "Memorials and Correspondence of Charles James Fox." The British government, failing in their efforts to have this article deferred for six months, finally yielded a most reluctant consent to its insertion in the treaty.

Why this reluctant consent? Because the 6th article stipulates that, with the exception of the territory between the river Wallis or Belize, and the Rio Hondo, within which permission was granted to British subjects to cut logwood, "all the English who may be dispersed in any other parts, whether on the Spanish continent, (*Continent Espagnol*;) or in any of the islands whatsoever, dependent on the aforesaid Spanish continent, and for whatever reason it might be, without exception, shall retire within the district which has been above described, in the space of eighteen months, to be computed from the exchange of ratifications." And the treaty further expressly provides, that the permission granted to cut logwood "shall not be considered as derogating in any wise from his (Catholic majesty's) rights of sovereignty" over this logwood district; and it stipulates, moreover, "that if any fortifications should actually have been heretofore erected, within the limits marked out, his Britannic majesty shall cause them all to be demolished, and he will order his subjects not to build any new ones."

But, notwithstanding these provisions, in the opinion of Mr. Fox, it was still in the power of the British government "to put our [their] own interpretation upon the words '*Continent Espagnol*,' and to determine upon prudential considerations whether the Mosquito shore comes under the description or not."

Hence the necessity for negotiations which should determine precisely and expressly the territory embraced by the treaty of 1783. These produced the convention of the 14th July, 1786, and its very first article removed every doubt on the subject. This declares that "His Britannic majesty's subjects, and the other colonists who have hitherto enjoyed the protection of England, shall evacuate the country of the Mosquitos as well as the continent in general and the islands adjacent, without exception," situated beyond the new limits prescribed by the convention, within which British subjects were to be permitted to cut not only logwood but mahogany and all other wood; and even this district is "indisputably acknowledged to belong of right to the crown of Spain."

Thus what was meant by the "*Continent Espagnol*," in the treaty of 1783, is defined beyond all doubt by the convention of 1786, and the sovereignty of the Spanish king over the Mosquito shore, as well as over every other portion of the Spanish continent and the islands adjacent, is expressly recognized.

It was just that Great Britain should interfere to protect the Mosquito Indians against the punishment to which they had exposed themselves as her allies from their legitimate and acknowledged sovereign. The 14th article of the convention, therefore, provides that "his Catholic majesty, prompted solely by motives of humanity, promises to the king of England that he will not exercise any act of severity against the Mosquitos inhabiting in part the countries which are to be evacuated by virtue of the present convention, on account of the connexions which may have subsisted between the said Indians and the English; and his Britannic majesty, on his part, will strictly prohibit all his subjects from furnishing arms or warlike stores to the Indians in general situated upon the frontiers of the Spanish possessions."

British honor required that these treaties with Spain should be faithfully observed, and from the contemporaneous history no doubt exists but that this was done; that the orders required by the 15th article of the convention were issued by the British government, and that they were strictly carried into execution.

In this connexion a reference to the significant proceedings in the House of Lords on March 26, 1787, ought not to be omitted. On that day a motion was made by Lord Rawdon, "That the terms of the convention of July 14, 1786, do not meet the favorable opinion of this House." The motion was discussed at considerable length and with great ability. The task of defending the ministry on this occasion was undertaken by Lord Chancellor Thurlow, and was most triumphantly performed. He abundantly justified the ministry for having surrendered the Mosquito shore to Spain, and proved that "the Mosquitos were not our allies; they were not a people we were bound by treaty to protect." "His lordship repelled the argument, that the settlement was a regular and legal settlement, with some sort of indignation; and so far from agreeing, as had been contended, that we had uniformly remained in the quiet and unquestionable possession of our claim to the territory, he called upon the noble Viscount Stormont to declare, as a man of honor, whether he did not know the contrary."

Lord Rawdon's motion to condemn the convention was rejected by a vote of 53 to 17.

It is worthy of special remark, that all sides of the House, whether approving or disapproving the convention, proceeded upon the express admission that it required Great Britain, employing its own language, to "evacuate the country of the Mosquitos." On this question the House of Lords were unanimous.

At what period, then, did Great Britain renew her claims to "the country of the Mosquitos, as well as the continent in general and the islands adjacent, without exception?" It certainly was not in 1801, when under the treaty of Amiens she acquired the island of Trinidad from Spain without any mention whatever of future acquisitions in America. It certainly was not in 1809, when she entered into a treaty of alliance, offensive and defensive, with Spain, to resist the Emperor Napoleon in his attempts to conquer the Spanish monarchy. It certainly was not in 1814, when the commercial treaties which had previously existed between the two powers, including, it is presumed, those of 1783 and 1786, were revived.

On all these occasions there was no mention whatever of any claims of Great Britain to the Mosquito protectorate or to any of the Spanish American territories which she had abandoned.

It was not in 1817 and 1819, when acts of the British parliament (57 and 59 Geo. III) distinctly acknowledged that the British settlement at Belize was "not within the territory and dominion of his majesty," but was merely "a settlement for certain purposes in the possession and under the protection of his majesty," thus evincing, with a determined purpose to observe, with the most scrupulous good faith, the treaties of 1783 and 1786 with Spain.

In the very sensible book of Captain Bonnycastle, of the corps of British Royal Engineers, on Spanish America, published at London in 1818, he gives no intimation whatever that Great Britain had revived her claim to the Mosquito protectorate. On the contrary, he describes the Mosquito shore as "a tract of country which lies along part of the northern and eastern shore of Honduras," which had "been claimed by the British." He adds, "the English held this country for eighty years, and abandoned it in 1787 and 1788."

Thus matters continued until a considerable period after 1821, in which year the Spanish provinces composing the captain generalship of Guatemala asserted and maintained their independence of Spain. It would be a work of supererogation to attempt to prove, at this period of the world's history, that these provinces, having by a successful revolution become independent states, succeeded within their respective limits to all the territorial rights of Spain. This will surely not be denied by the British government, which took so noble and prominent a part in securing the independence of all the Spanish American provinces.

Indeed, Great Britain has recorded her adhesion to this principle of international law, in her treaty of the 26th December, 1826, with Mexico, then recently a revolted Spanish colony. By this treaty, so far from claiming any right beyond the usufruct, which had been conceded to her under the convention with Spain of 1786, she recognizes

its continued existence and binding effect as between herself and Mexico, by obtaining and accepting from the government of the latter a stipulation that British subjects shall not be "disturbed or molested in the peaceable possession and exercise of whatever rights, privileges and immunities they have at any time enjoyed within the limits described and laid down" by that convention. Whether the former Spanish sovereignty over Belize, subject to the British usufruct, reverted of right to Mexico or to Guatemala may be seriously questioned; but, in either case, this recognition by Great Britain is equally conclusive.

And here it may be appropriate to observe, that Great Britain still continues in possession, not only of the district between the Rio Hondo and the Sibun, within which the king of Spain, under the convention of 1786, had granted her a license to cut mahogany and other woods, but the British settlers have extended this possession south to the river Sarstoon, one degree and a half of latitude beyond "the limits described and laid down" by the convention. It is presumed that the encroachments of these settlers south of the Sibun have been made without the authority or sanction of the British crown, and that no difficulty will exist in their removal.

Yet in view of all these antecedents, the island of Ruatan, belonging to the State of Honduras, and within sight of its shores, was captured in 1841 by Colonel McDonald, then her Britannic majesty's superintendent at Belize, and the flag of Honduras was hauled down and that of Great Britain was hoisted in its place. This small State, incapable of making any effectual resistance, was compelled to submit, and the island has ever since been under British control. What makes this event more remarkable is, that it is believed a similar act of violence had been committed on Ruatan by the superintendent of Belize in 1835; but, on complaint by the federal government of the Central American States, then still in existence, the act was formally disavowed by the British government, and the island was restored to the authorities of the republic.

No question can exist but that Ruatan was one of the "islands adjacent" to the American continent, which had been restored by Great Britain to Spain under the treaties of 1783 and 1786. Indeed, the most approved British gazetteers and geographers, up till the present date, have borne testimony to this fact, apparently without information from that hitherto but little known portion of the world, that the island had again been seized by her majesty's superintendent at Belize, and was now a possession claimed by Great Britain.

When Great Britain determined to resume her dominion over the Mosquito shore, in the name of a protectorate, is not known with any degree of certainty in the United States. The first information on the subject, in the Department of State at Washington, was contained in a dispatch of the 20th January, 1842, from William S. Murphy, esq., special agent of the American government to Guatemala, in which he states that in a conversation with Colonel McDonald at Belize, the latter had informed him he had discovered and sent documents to England, which caused the British government to revive their claim to the Mosquito territory.

According to Bonnycastle, the Mosquito shore "lies along part of the northern and eastern shore of Honduras," and, by the map which accompanies his work, extends no further south than the mouth of the river Segovia, in about 12° north latitude. This respectable author certainly never could have imagined that it extended south of San Juan de Nicaragua, because he describes this as the principal seaport of Nicaragua on the Caribbean sea; says there are "three portages" between the lake and the mouth of the river, and "these carrying places are defended, and at one of them is the fort, San Juan, called also, the castle of Neustra Senora, on a rock and very strong; it has thirty-six guns mounted, with a small battery whose platform is level with the water; and the whole is enclosed on the land side by a ditch and rampart. Its garrison is generally kept up at a hundred infantry, sixteen artillery men, with about sixty of the militia, and is provided with batteaux, which row guard every night up and down the stream."

Thus it appears that the Spaniards were justly sensible of the importance of defending this outlet from the lake of Nicaragua to the ocean, because, as Captain Bonnycastle observes, "This port (San Juan) is looked upon as the key of the Americas; and with the possession of it, and Realejo on the other side of the lake, the Spanish colonies might be paralyzed, by the enemy being then master of the ports of both oceans." He might have added, that nearly sixty years ago, on the 26th February, 1796, the port of San Juan de Nicaragua was established as a port of entry of the second class by the king of Spain.

Captain Bonnycastle, as well as the Spaniards, would have been greatly surprised had they been informed that this port was a part of the dominions of his majesty the king of the Mosquitos, and that the cities and cultivated territories of Nicaragua surrounding the lakes Nicaragua and Managua had no outlet to the Caribbean sea, except by his gracious permission. It was therefore with profound surprise and regret the government and people of the United States learned that a British force, on the 1st of January, 1848, had expelled the State of Nicaragua from San Juan; had hauled down the Nicaraguan flag, and had raised the Mosquito flag in its place. The ancient name of the town, San Juan de Nicaragua, which had identified it in all former time as belonging to Nicaragua, was on this occasion changed, and thereafter it became Greytown.

These proceedings gave birth to serious apprehensions throughout the United States, that Great Britain intended to monopolize for herself the control over the different routes between the Atlantic and Pacific, which, since the acquisition of California, had become of vital importance to the United States. Under this impression it was impossible that the American government could any longer remain silent and acquiescing spectators of what was passing in Central America.

Mr. Monroe, one of our wisest and most discreet Presidents, announced in a public message to Congress, in December, 1823, that, "the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered subjects for future colonization by any European powers."

This declaration has since been known throughout the world as the "Monroe doctrine," and has received the public and official sanction of subsequent Presidents as well as of a very large majority of the American people.

Whilst this doctrine will be maintained, whenever in the opinion of Congress the peace and safety of the United States shall render this necessary, yet, to have acted upon it in Central America might have brought us into collision with Great Britain, an event always to be deprecated and, if possible, avoided.

We can do each other the most good and the most harm of any two nations in the world; and therefore it is our strong mutual interest, as it ought to be our strong mutual desire, to remain the best friends. To settle these dangerous questions, both parties wisely resorted to friendly negotiations, which resulted in the convention of April, 1850. May this prove to be instrumental in finally adjusting all questions of difficulty between the parties in Central America, and in perpetuating their peace and friendship!

Surely, the Mosquito Indians ought not to prove an obstacle to so happy a consummation. Even if these savages had never been actually subdued by Spain, this would give them no title to rank as an independent State, without violating the principles and the practice of every European nation, without exception, which has acquired territory on the continent of America. They all mutually recognized the right of discovery, as well as the title of the discoverer, to a large extent of interior territory, though at the moment occupied by fierce and hostile tribes of Indians.

On this principle the wars, the negotiations, the cessions, and the jurisprudence of these nations were founded. The ultimate dominion and absolute title belonged to themselves, although several of them, and especially Great Britain, conceded to the Indians a right of mere occupancy, which, however, could only be extinguished by the authority of the nation within whose dominions these Indians were found. All sales or transfers of territory made by them to third parties were declared to be absolutely void; and this was a merciful rule even for the Indians themselves, because it prevented them from being defrauded by dishonest individuals.

No nation has ever acted more steadily upon these principles than Great Britain, and she has solemnly recognized them in her treaties with the king of Spain of 1783 and 1786, by admitting his sovereignty over the Mosquitos.

Shall the Mosquito tribe of Indians constitute an exception from this hitherto universal rule? Is there anything in their character or in their civilization which would enable them to perform the duties and sustain the responsibilities of a sovereign State in the family of nations?

Bonnycastle says of them that they "were formerly a very powerful and numerous race of people, but the ravages of rum and the small-pox have diminished their numbers very much." He represents them, on the authority of British settlers, as seeming "to have no other religion than the adoration of evil spirits."

The same author also states that "the warriors of this tribe are

accounted at fifteen hundred." This possibly may have been correct in 1818, when the book was published, but at present serious doubts are entertained whether they reach much more than half that number.

The truth is, they are now a debased race, and are degraded even below the common Indian standard. They have acquired the worst vices of civilization from their intercourse with the basest class of the whites, without any of its redeeming virtues. The Mosquitos have been thus represented by a writer of authority who has recently enjoyed the best opportunities for personal observation. That they are totally incapable of maintaining an independent civilized government is beyond all question. Then, in regard to their so-called king, Lord Palmerston, in speaking of him to Mr. Rives, in September, 1851, says: "They had what was called a king, who, by the bye," he added in a tone of pleasantry, "was as much a king as I or you." And Lord John Russell, in his dispatch to Mr. Crampton of the 19th January, 1853, denominates the Mosquito government as "a fiction," and speaks of the king as a person "whose title and power are, in truth, little better than nominal."

The moment Great Britain shall withdraw from Bluefields, where she now exercises exclusive dominion over the Mosquito shore, the former relations of the Mosquitos to Nicaragua and Honduras, as the successors of Spain, will naturally be restored. When this event shall occur, it is to be hoped that these States, in their conduct towards the Mosquitos and the other Indian tribes within their territories, will follow the example of Great Britain and the United States. Whilst neither of these has ever acknowledged or permitted any other nation to acknowledge any Indian tribe within their limits as an independent people, they have both recognized the qualified right of such tribes to occupy the soil, and, as the advance of the white settlements rendered this necessary, have acquired their title by a fair purchase.

Certainly it cannot be desired that this extensive and valuable Central American coast, on the highway of nations between the Atlantic and the Pacific, should be appropriated to the use of three or four thousand wandering Indians as an independent State, who would use it for no other purpose than that of hunting and fishing and savage warfare. If such an event were possible, the coast would become a retreat for pirates and outlaws of every nation, from whence to infest and disturb the commerce of the world in its transit across the isthmus. And but little better would be its condition should a new independent State be established on the Mosquito shore. Besides, in either event, the Central American States would deeply feel the injustice which had been done them in depriving them of a portion of their territories. They would never cease in attempts to recover their rights, and thus strife and contention would be perpetuated in that quarter of the world where it is so much the interest, both of Great Britain and the United States, that all territorial questions shall be speedily, satisfactorily, and finally adjusted.

JAMES BUCHANAN.

LONDON, *January 6, 1854.*

Mr. Buchanan to Mr. Marcy.

[Extract.]

[No. 31.]

LEGATION OF THE UNITED STATES,
London, May 5, 1854.

SIR: Late on Tuesday evening last, I received the long promised and long delayed statement of Lord Clarendon on the Central American questions, dated on the 2d instant, a copy of which I have now the honor to transmit. Accompanying this statement, I also received a private note from his lordship, apologizing "for the further delay that has taken place, owing to the Easter holidays, and the necessity of consulting some of my [his] colleagues who were out of town."

* * * * *

Yours, very respectfully,

JAMES BUCHANAN.

Hon. W. L. MARCY,
Secretary of State.

Mr. Lawrence to Lord Palmerston.

UNITED STATES LEGATION,
November 8, 1849.

MY DEAR LORD: As I told you in our conversation this morning, I have been instructed by the President to inquire whether the British government intends to occupy or colonize Nicaragua, Costa Rica, the Mosquito coast, so called, or any part of Central America. I have also been instructed to inquire whether the British government will unite with the United States in guaranteeing the neutrality of a ship canal, railway, or other communication, to be open to the world and common to all nations. May I beg the favor of an answer to these inquiries, and to express the wish that I may receive it before two o'clock to-morrow, so as to send it out by this week's packet.

I am aware that Nicaragua is in dispute with Costa Rica, on the one hand, about her boundary, and with the Mosquitos, on the other, about their sovereignty. I have no purpose now to enter upon those questions. I only desire to know the views of her Majesty's government on the questions I have proposed. At the same time I cannot but think that Great Britain and the United States can heal these breaches by kind offices, and that the Indians can be provided for in a manner satisfactory to Nicaragua and Great Britain, and far better for them than the equivocal position they now occupy.

I need not assure your lordship that the United States have no ulterior purposes in view. They frankly disclaim all intention of obtaining territory in Central America, and I have no doubt would be willing to mutually agree with Great Britain neither to settle, annex, colonize, or fortify that country.

I am, &c.,

ABBOTT LAWRENCE.

VISCOUNT PALMERSTON, &c.

Lord Palmerston to Mr. Lawrence.

FOREIGN OFFICE, November 13, 1849.

MY DEAR SIR: I have received your letter of the 8th, written in accordance with what passed in our conversation in the morning of that day, and I hasten to reply to your inquiries.

With regard to the first part of your inquiry, I beg to say that her Majesty's government do not intend to occupy or colonize Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America.

With regard to Mosquito, however, a close political connexion has existed between the crown of Great Britain and the State and Territory of Mosquito for a period of about two centuries, but the British government does not claim dominion in Mosquito.

With regard to the second part of your inquiry, I beg to say that her Majesty's government will feel great pleasure in combining and co-operating with the government of the United States, for the purpose of assisting the operations of any company which may be formed with a view to establish a commercial communication, by canal or railway, between the Atlantic and Pacific, across the isthmus which divides the northern and southern portion of the American continent, both by obtaining local security for the works while in progress, and when completed and in use, and by placing such communication, through the means of political arrangements, beyond the reach of molestation, disturbance, or obstruction by reason of international disputes which may at any time unfortunately arise, upon the condition, moreover, that such communication should at all times be open and accessible for the commerce of all nations, upon equal terms for all. Her Majesty's government would feel that the union of two great powers for the accomplishment of an object of such general utility, and tending so much to assist the diffusion of civilization and to strengthen the foundations of international peace, would be as honorable to the powers concerned in such an arrangement as the result would be advantageous to the commercial interests of the world at large.

With regard to the port of Greytown, at the mouth of the river St. John, her Majesty's government would fully undertake to obtain the consent of Mosquito to such arrangements as would render that port entirely applicable, and on the principles above mentioned, to the purposes of such a sea to sea communication.

You advert in your letter to the differences which have arisen between the republics of Nicaragua and Costa Rica, in regard to boundaries and some other matters, and you suggest that the joint influence of Great Britain and the United States should be employed to heal, by their good offices, the breaches which have interrupted the friendly relations of those two contiguous States. Her Majesty's government would, upon every account, be glad to join with the United States in effecting such a reconciliation, and the more so, because the cordial co-operation of both of those republics would be essential for the satisfactory completion of the contemplated undertaking.

I have only further to say that her Majesty's government have re-

ceived with great satisfaction your assurance that the United States have no ulterior purposes in view in regard to these matters; that they frankly disclaim all intention of obtaining territory in Central America, and that you have no doubt that they would be willing to enter into a mutual agreement with Great Britain, neither to settle, annex, colonize, or fortify that country, and I can with equal frankness assure you, that into such a mutual agreement her majesty's government would be equally ready to enter.

I am, &c., &c.

PALMERSTON.

ABBOTT LAWRENCE, Esq., &c., &c., &c.

Mr. Marcy to Mr. Buchanan.

[Extracts.]

[No. 42.]

DEPARTMENT OF STATE,
Washington, June 12, 1854.

SIR: The perusal of Lord Clarendon's reply to your statement in regard to Central American affairs does not encourage hopes of a speedy adjustment of them.

I still indulge the hope, that, by the array of facts and arguments bearing on the questions in difference in regard to Central American affairs, the government of Great Britain will be induced to abandon the main positions assumed by Lord Clarendon in his statement of the 2d ultimo.

This government can never yield to the pretension that the treaty of the 19th of April, 1850, was only prospective in its operation, and that Great Britain retained the right to hold on to all she then had or now claims to have had in Central America. It was certainly our expectation that she came under obligations to the United States, by that instrument, to withdraw from interference in Central American affairs, and this expectation is sustained by the language of the treaty. There is room for a fair difference of opinion as to the position she should in future occupy in regard to Belize or British Honduras. It was not the object of the President, as you will perceive by your general instructions, to direct you to insist that by the Clayton and Bulwer treaty she was bound to abandon the possession of the Belize. She had a right to occupy for a specific purpose a small district of country on the shore of the Bay of Honduras, but had no sovereignty over it. The character of this right, and the extent of territory to which it applied, are both clearly defined in her treaty with Spain of 1786. If this territory could be fairly considered within the limits of Central America, then the British possession of it was affected by the treaty, and this government might consequently claim the abandonment of the British occupation and dominion over it. The assertion of the claim upon Great Britain to abandon Belize as a

territory included in the treaty is embarrassed by two considerations. First, by the notes which passed between the negotiators of the treaty at the time of exchanging ratifications; and, second, by the doubt as to its geographical position being within the limits of Central America.

Discovering on the part of the British government a disposition to escape from what are here regarded as the obvious stipulations of the treaty, the President would have you avoid embarrassing the negotiation by urging so questionable a matter as a right derived from the treaty for the surrender of Belize. He does not, therefore, instruct you to insist upon applying the stipulations of the treaty to that territory; but you will resist the British pretension to extend it to any part of Central America, or beyond the limits fixed to it in the Spanish treaty of 1786. You will also resist the British pretension to regard that territory as one of her colonies. She acquired no sovereign right in Belize under her treaties with Spain. Her treaty with Mexico, in 1826, only continued the limited right she had from Spain, and the very fact of treating with Mexico for the continuation of her usufruct of Belize, was a clear acknowledgment that the sovereignty over it was in Mexico at that time.

While you will abstain from claiming the surrender of the possession of Belize under the Clayton and Bulwer treaty, you will resist the pretension of Great Britain to regard it as a colonial possession with sovereign rights, or to extend it beyond the limits designated in the original grant—the Spanish treaties of 1783 and 1786.

In a commercial point of view, the possession of Belize can now be of very little value to Great Britain; and, politically considered, it must be an incumbrance, unless she has undisclosed objects in view. Her persistence in claiming a right to it would indicate on her part a policy of retaining in her hands the means of annoying this country, and of interrupting its intercourse with its possessions on the Pacific. If it is her sincere desire to maintain peaceful relations with the United States, she would be ready for the accomplishment of such an important object to retire from so useless a possession.

An attempt on the part of Great Britain to extend Belize so as to include any part of Central America, will be repudiating an express stipulation of the treaty of the 19th of April, 1850.

I cannot believe that the British government intends to hold the position that the Bay Islands are an appendage to Belize. Should this be so, and she pertinaciously maintains it, there will be very little hope left for the success of your negotiation in regard to Central America. You have command of facts enough to drive her from this position, unless there is a determination to hold it against the clearest evidence and the strongest arguments.

Ruatan can only be desirable to Great Britain as a naval and military station, and for that purpose only, as it would give her great facility in affecting injuriously our interests. Should she refuse to acknowledge it as a part of the State of Honduras, and retain possession of it for herself, the United States would clearly understand her object. A predetermination to interfere with our affairs thus mani-

fested will render the continuance of our amicable relations with her precarious.

* * * * *

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

Mr. Buchanan to Mr. Marcy.

[No. 39.]

LEGATION OF THE UNITED STATES,
London, July 25, 1854.

SIR: I have the honor to transmit to you a copy of my "remarks in reply to Lord Clarendon's statement of May 2, 1854," the original having been sent to his lordship on the 22d instant.

I regret their length, but I found it impossible, such were the number of topics introduced in the British statement, to render them shorter. I trust they may meet the approbation of the President and yourself.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. W. L. MARCY, &c., &c., &c.

Mr. Buchanan to Mr. Marcy.

[Extract.]

[No. 61.]

LEGATION OF THE UNITED STATES,
London, February 16, 1855.

SIR: Since the ministerial crisis all public business has been suspended in this country, except such as relates to the existing war with Russia. From a conversation which I casually had with Lord Aberdeen on the day before the vote against his ministry in the House of Commons, I was confirmed in the belief that the Central American questions would have been settled had he remained in power a few weeks longer.

* * * * *

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WM. L. MARCY,
Secretary of State.

Mr. Marcy to Mr. Buchanan.

[No. 104.]

DEPARTMENT OF STATE,
Washington, August 6, 1855.

SIR: The President is anxious to have the questions which have been raised on the treaty between the United States and Great Britain

of the 19th of April, 1850, settled, if possible, or, at least, brought to a distinct issue, before you retire from your mission. The negotiation cannot be committed to any one who so well understands the subject in all its bearings as you do, or who can so ably sustain and carry out the views of the United States.

The President has been unwilling to manifest impatience at the delay which has attended this negotiation while her majesty's government was engrossed by the war with Russia, but he deems it to be but reasonable that it should now be urged to a conclusion. It is important that the United States should know the positions Great Britain is determined to maintain relative to the Central American questions.

I need not express to you the surprise the President felt on learning the views of her majesty's government, as presented to you in Lord Clarendon's statement of the 2d of May, 1854, in regard to Ruatan and the other islands, constituting what may now be looked upon as the British colony of the Bay Islands. These views are considered by this government as not only contrary to the spirit, but directly at variance with the clear language, of the convention of 1850.

After the very cogent argument contained in your able reply to that statement, the President is unwilling to believe that the positions, rather indicated than maintained, by Lord Clarendon, relative to Ruatan, will be adhered to. If a stipulation, so explicit in terms and so clearly applicable to the Bay Islands, is to be nullified by interpretation, every other provision in that instrument, so far as it imposes obligations upon Great Britain, may, in the same way, and with equal plausibility, be defeated.

Should Great Britain refuse to withdraw from Ruatan and the other islands on the coast of the State of Honduras, her determination, in that respect, could not but be regarded by the President as a non-compliance with the stipulations of the treaty of 1850. The fact that these islands are a part of Central America is so unquestionable, and the stipulations of the convention are so directly applicable to them, that there seems to be no room for raising a question of interpretation.

After what was said to you by Lord Aberdeen, when at the head of the British government, it is to be hoped that the British pretension to hold Ruatan will be abandoned. If Great Britain still persists in holding these islands and in maintaining a colony there, her determination to that effect should be distinctly announced, so that this government may no longer be left in doubt as to her intentions. On this point you are instructed to ask of her majesty's government an explicit declaration.

The main inducement which this government had, as you have well observed, for entering into this treaty, was to prevent Great Britain from acquiring or exercising dominion in Central America; but this object is entirely defeated by the interpretation which the British government proposes to give to that instrument. While the United States are excluded from occupying, colonizing, or exercising any dominion over any part of Central America, it cannot be admitted that the same restriction is not imposed on Great Britain.

You are, therefore, directed to declare explicitly to her majesty's government, that the President, after a full consideration of what is alleged in Lord Clarendon's statement of the 2d of May, 1854, cannot entertain a doubt but that Great Britain is solemnly bound by the first article of the convention of 1850 not to occupy, or fortify, or colonize, or assume or exercise any dominion over Ruatan, or any of the islands on the coast of the State of Honduras, known or described as the Bay Islands, and that he expects she will, in fulfilment of the stipulations of that treaty, abandon the possession she now holds of this part of Central America.

It would be superfluous to enlarge upon the views you have taken of the British protectorate over the Mosquito Indians. The groundlessness of the British pretensions to exercise control or dominion in Central American affairs, under the shadow of this protectorate, is so clearly demonstrated in your remarks, in reply to Lord Clarendon's statement, as to supersede further discussion on the subject. What effect these remarks have produced on the British government is not yet known. If they have received the consideration due to them, I am sure they will open the way to the peaceful adjustment of these embarrassing Central American questions.

It is not strange that Lord Clarendon should manifest some reluctance to have the foundation of the British protectorate over the Mosquitos explored; but the rights claimed under it seem necessarily to have called for the examination which you have given to the subject. The result of that examination shows that the Mosquito kingdom, as a political State is, in any view of it, what Lord Palmerston acknowledged it to be—a mere fiction. Upon this admitted fiction, Great Britain now attempts to establish a substantial sovereign power over an extensive region in Central America, and when required by the United States to withdraw from the exercise of this power, in compliance with the stipulations of the convention of 1850, she endeavors to escape from her obligation to do so, by designating the dominion she exercises as a protectorate.

A protectorate necessarily implies the actual existence of a sovereign authority in the protected power; but where there is, in fact, no such authority there can be no protectorate. The Mosquitos are a convenience to sustain British pretensions, but cannot be regarded as a sovereign State. Lord Palmerston, as was evinced by his remark to Mr. Rives, took this view of the political condition of the Mosquitos, and it is so obviously correct that the British government should not be surprised if the United States consider the subject in the same light.

It was the confident belief of the United States that this fiction of a Mosquito kingdom had been disposed of by the convention, but very much to their surprise it is now resorted to as the basis of a British dominion over an extensive region of Central America.

Admitting that the convention did not require the absolute renunciation of the Mosquito protectorate, it imposed, as is admitted, restrictions upon it. After the conclusion of that treaty it could not be used for the purpose of occupying, fortifying, or colonizing any part

of Central America, or for the purpose of assuming or exercising dominion over the same.

Great Britain will not, I think, contend that it has been thus practically restricted since the ratification of the convention of 1850. There is no visible power, civil or military, in the Mosquito territory but that which is exercised by British subjects.

It is understood, and, indeed, asserted by the British government, that the protectorate is only used for the security of the rights of the Mosquito Indians, and that it is ready to abstain from further interference in that country whenever these rights can be in a proper manner guaranteed to those Indians.

This is a question between the State of Nicaragua and those Indians, with which neither Great Britain nor the United States has any business to interfere except in friendly conference with Nicaragua.

Were this the only difficulty in carrying out the convention of 1850, as it is understood by the United States, I should entertain but little doubt that a satisfactory adjustment might be made of the Central American questions. I apprehend, however, that there will be more difficulty in inducing Great Britain to comply with the stipulations of the treaty by surrendering the territory encroached on by her subjects between the Sibun and Sarstoon rivers. Her claim to hold possession of this part of Central America is as groundless as her pretensions to the Bay Islands.

It is difficult to conceive how the argument which you have submitted to her majesty's government against this claim can be refuted. Great Britain cannot hold this territory without assuming or exercising dominion over a part of Central America, and this she has, in the most explicit manner, and in the strongest terms, covenanted not to do.

If she can succeed in her attempt to convert her license to cut logwood at the Belize, within the limits specified by her treaties with Spain of 1783 and 1786, into a sovereign right over that territory, and extend it so as to cover the region between the Sibun and Sarstoon, she will in that way entirely destroy the mutuality of the convention of 1850. It was the manifest intention of that instrument to exclude both of the contracting parties from holding, as well as from acquiring, territorial possessions in Central America. This intention was not clothed in ambiguous language, but was set forth in explicit terms. The United States have bound themselves not to acquire any such possessions, and Great Britain has stipulated not to assume or exercise any dominion over any part of Central America. This covenant is in nowise restricted by the explanatory note of the negotiators of the 4th of July, 1850.

The United States have a right to insist, and do insist, that the possession of the British government at the Belize shall be restricted to the limits and objects specified in the Spanish grant, and that all beyond those limits, falling within Central America, shall be relinquished.

You are instructed by the President to urge upon her Britannic majesty's government this view, and to claim a compliance with it as demanded by the stipulations of the convention of 1850.

The British government having been furnished with the views entertained by the President in regard to the obligations imposed by that convention, he expects it will be equally explicit on its part.

He does not doubt that the interest of the two countries, and the mutual desire to maintain existing amicable relations, will alike inspire each party with a conciliatory spirit, which will enable them to overcome all obstacles to a satisfactory adjustment.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

Mr. Buchanan to Mr. Marcy.

[No. 89.]

LEGATION OF THE UNITED STATES,
London, September 11, 1855.

SIR: I have the honor of transmitting to you the copy of a note which I this day addressed to Lord Clarendon on the Central American questions, in obedience to your instructions of the 6th ultimo, (No. 104.) I shall, of course, be anxious to learn whether it has received the President's approbation. It has been prepared with much care, my purpose having been to employ conciliatory language, so far as this might be done consistently with the President's instructions and the attainment of the objects which he had in view.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WILLIAM L. MARCY,
Secretary of State.

Mr. Buchanan to Lord Clarendon.

LEGATION OF THE UNITED STATES,
London, September 11, 1855.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States, has been instructed by the President again to call the attention of the Earl of Clarendon, her majesty's principal secretary of state for foreign affairs, to the Central American questions pending between the two governments, under the convention of April 19, 1850.

The President has directed the undersigned, before retiring from his mission, to request from the British government a statement of the positions which it has determined to maintain in regard to the Bay Islands, the territory between the Sibun and the Sarstoon, as well as the Belize settlement, and to the Mosquito protectorate. The long delay in asking for this information has proceeded from the President's reluctance to manifest any impatience on this important subject whilst the attention of her majesty's government was engrossed by the war with Russia. But as more than a year has already elapsed since the termination of the discussion on these questions, and as the

first session of a new Congress is rapidly approaching, the President does not feel that he would be justified in any longer delay.

Whilst it is far from the purpose of the undersigned to reopen the general discussion, he has been instructed to communicate to the Earl of Clarendon the conclusions at which the President has arrived upon the whole case.

After having carefully reviewed and reconsidered all the questions involved, with the light cast upon them by the Earl of Clarendon's statement of May 2, 1854, the President has expressed his unwillingness to believe that the positions which he conceives to be rather indicated therein than finally adopted will be adhered to by the British government.

It was, in his opinion, the manifest intention of the convention to exclude both the contracting parties from holding or occupying, as well as from acquiring territorial possessions in Central America; and that this intention is not clothed in ambiguous language, but is set forth in explicit terms. The United States have bound themselves not to acquire any such possessions, and Great Britain has stipulated not to "assume or exercise any dominion over any part of Central America." Indeed, without such a reciprocal engagement, no mutuality whatever would have existed between the covenants of the contracting parties. Whilst the United States are excluded from occupying, colonizing, or exercising dominion over any part of Central America, it cannot be admitted that the same restriction, imposed in the very same language, is not equally applicable to Great Britain.

The President, therefore, confidently believes that Great Britain is bound by the first article of the convention of 1850 to withdraw from the possession she now holds of Ruatan and the other Central American islands on the coast of the State of Honduras, as well as from the territory in Central America between the Sibun and the Sarstoon, which has been encroached upon by her Majesty's subjects. He is also of opinion that the possession of the British government at the Belize should be restricted to the limits and objects specified in the treaties between Great Britain and Spain of 1783 and 1786.

In regard to the alleged protectorate over the so-called Mosquito kingdom, the President has instructed the undersigned to say it was his confident belief that this protectorate had been finally disposed of by the convention. It is therefore much to his regret that he finds it is still continued as the basis of British dominion over an extensive region in Central America.

Even although Great Britain admits that the convention has imposed restrictions on the protectorate claimed, yet she still continues to exercise the same dominion over the Mosquito coast which she had done before its date. Indeed, at the present moment, no visible power, civil or military, exists in the Mosquito territory, except that which is exercised by British subjects, notwithstanding the convention expressly prohibits both parties from using any protection which either may afford to any State or people, for the purpose of occupying, fortifying, or colonizing, the Mosquito coast, or any part of Central America, or for the purpose of assuming or exercising dominion over the same.

The declaration of the British government, that this protectorate is only employed for the security of the rights of the Mosquito Indians, and that it is ready to abstain from further interference in that country whenever these rights can, in a proper manner, be guaranteed to them, cannot be recognized by the United States as having any foundation in the convention. The President considers this to be a question between Nicaragua and the Indians within its territory, with which neither Great Britain nor the United States has any right to interfere, except in friendly conference with the authorities of that State.

Having thus distinctly presented to the British government the views of the government of the United States, in regard to the obligations imposed by the convention of 1850, the President feels assured that the Earl of Clarendon will, with characteristic frankness, be equally explicit in presenting the views of the British government in regard to these obligations.

In conclusion, the undersigned is instructed to state that the President does not doubt that the interest of the two countries, and their mutual desire to maintain existing friendly relations, will alike inspire each party with a conciliatory spirit, and enable them to overcome all obstacles to a satisfactory adjustment of the Central American questions.

The undersigned has the honor to renew to the Earl of Clarendon the assurance of his distinguished consideration.

JAMES BUCHANAN.

The Right Hon. the EARL OF CLARENDON, &c., &c., &c.

Mr. Buchanan to Mr Marcy.

[Extract.]

[No. 95.]

LEGATION OF THE UNITED STATES,

London, October 4, 1855.

SIR: I have now the honor of transmitting to you a copy of the note of Lord Clarendon of the 28th, received by me on the 29th ultimo, in answer to my note of the 11th ultimo, on the Central American questions, as well as a copy of my reply dated on the 4th instant. Lord Clarendon's note is of such a character as might have been anticipated after the conversation between his lordship and myself on the 5th April last, reported in my dispatch (No. 66) of the 7th of that month. This note has been received so much sooner than I had anticipated, that if I were now in possession of my letter of recall I might return home on the 6th of October, as I had originally determined. It is impossible, however, that I should leave before this letter shall arrive, and it is certainly proper, under all the circumstances, that I should remain here no longer than may be necessary. If, therefore, it shall not have been

forwarded before the arrival of this dispatch, I trust it may be sent by the next succeeding steamer.

* * * * *

Yours, very respectfully,

JAMES BUCHANAN.

HON. WILLIAM L. MARCY,
Secretary of State.

FOREIGN OFFICE, *September 28, 1855.*

The undersigned, her majesty's principal secretary of state for foreign affairs, has the honor to acknowledge the receipt of the note which Mr. Buchanan, envoy extraordinary and minister plenipotentiary of the United States addressed to him on the 11th instant, stating that he had been directed by the President, before retiring from his mission, to request from the British government a statement of the positions which it has determined to maintain, in regard to the Bay Islands, to the territory between the Sibun and the Sarstoon, as well as the Belize settlement, and to the Mosquito protectorate, and setting forth the conclusions at which the President has arrived upon the whole case, namely, that it was the intention of the convention of the 19th of April, 1850, to exclude both the contracting parties from holding or occupying, as well as from acquiring territorial possessions in Central America, and that, consequently, Great Britain is bound to withdraw from the possession she now holds of Ruatan and other Central American islands on the coast of the State of Honduras, as well as from the territory in Central America between the Sibun and the Sarstoon; that the possession of the British government at Belize should be restricted to the limits and objects specified in the treaties between Great Britain and Spain of 1783 and 1786, and that the protectorate of the so-called Mosquito kingdom was finally disposed of by the convention.

The undersigned observes with satisfaction that, while thus expressing the opinion of the President of the United States on the several points thus enumerated, Mr. Buchanan announces that it is far from his purpose to re-open the general discussion upon them. Her majesty's government had, indeed, refrained from pursuing that discussion by replying to Mr. Buchanan's note of the 22d of July, 1854, because it appeared to them that the continuation of the correspondence was not likely to lead to any satisfactory conclusion; and, as her majesty's government are still of that opinion, the undersigned will confine his answer to Mr. Buchanan's present note within the same limits as those which Mr. Buchanan has prescribed to himself.

In answer, therefore, to the questions put by Mr. Buchanan, the undersigned has the honor to state to him, that her majesty's government adhere to the opinion which they have uniformly held, that the convention of April 19, 1850, was merely prospective in its operation, and did not in any way interfere with the state of things existing at the time of its conclusion. If it had been intended to do so, there

can be no question but that, in conformity with what the undersigned believes to be the universal rule in regard to instruments of this nature, it would have contained, in specific terms, a renunciation, on the part of Great Britain, of the possessions and rights which, up to the conclusion of the convention, she had claimed to maintain, and such renunciation would not have been left as a mere matter of inference.

Neither can her majesty's government subscribe to the position that, if the convention did not bear the meaning attached to it by the United States, it would have imposed upon the government of the United States, a self-denying obligation which was not equally contracted by Great Britain, and that such a state of things could not have been in the intention of the contracting parties, because, if the convention did bear the meaning attached to it by the United States, it would then have imposed upon Great Britain the obligation to renounce possessions and rights without any equivalent renunciation on the part of the United States. If the government of the United States can complain, in the one case, of the convention as presenting an unilateral character unfavorable to the United States, with much greater reason might the government of Great Britain, in the other case, if the assumption of the United States were to be acted upon in the construction of the convention, complain of it as prejudicial to England.

But looking to the object which the contracting parties had in view at the conclusion of the convention, namely, the security of the proposed ship canal, the British government consider that the design of the contracting parties was not to disturb any state of things then existing, but to guard against the future creation of a state of things which might by possibility interfere with the security of the proposed canal. That such was the true design of the convention is obvious from the provision in the sixth article, by which the contracting parties engaged to invite every State to enter into stipulations with them similar to those contained in the convention. But if the position of the United States government were sound, and the convention was intended to interfere with the state of things existing at the time of its conclusion, and to impose upon Great Britain to withdraw from portions of territory occupied by it, a similar obligation would be contracted by other States acceding to the convention, and the governments of the Central American States would, by the mere act of accession, sign away their rights to the territories in which they are situated.

The British government share the conviction of the President of the United States that the interest of the two countries, and their mutual desire to maintain existing friendly relations, will alike inspire each party with a conciliatory spirit, and enable them to overcome all obstacles to a satisfactory adjustment of Central American questions. The British government see no reason why it should be otherwise. The British government neither have the wish to extend the limits of their possessions or the sphere of their influence in that quarter, nor would any British interest be promoted by doing so; but the British government are not prepared to contract either the one or the other,

in pursuance of the interpretation of a convention, to which interpretation they cannot subscribe.

The undersigned requests Mr. Buchanan to accept the assurance of his highest consideration.

CLARENDON.

HON. JAMES BUCHANAN, &c., &c., &c.

LEGATION OF THE UNITED STATES,
October 4, 1855.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States, has the honor to acknowledge the receipt of the note of the Earl of Clarendon, her majesty's principal secretary of state for foreign affairs, dated on the 28th ultimo, in reply to the note of the undersigned of the 11th ultimo, in reference to the Central American questions between the two governments; and he will not fail to transmit a copy of the same, by the next steamer, to the Secretary of State at Washington.

Whilst far from intending to renew the general discussion of these questions, which has already been exhausted, the undersigned, in passing, would make a single observation in regard to the Earl of Clarendon's remark, that if the convention of the 19th April, 1850, had intended that Great Britain should withdraw from her possessions in Central America, "it would have contained, in specific terms, a renunciation" to that effect; "and such renunciation would not have been left as a mere matter of inference."

Now, it appears to the undersigned that an engagement by a party not "to occupy," "or exercise any dominion" over territory of which that party is in actual possession at the date of the engagement, is equivalent in all respects to an agreement to withdraw from such territory. Under these circumstances, this is not "a mere matter of inference;" because the one proposition is necessarily and inseparably involved in the other, and they are merely alternative modes of expressing the same idea. In such a case, to withdraw is not to occupy, and not to occupy is necessarily to withdraw.

The undersigned needs no apology for briefly advertng to another argument of the Earl of Clarendon, because it has now for the first time been advanced. He states, that "if the position of the United States government were sound, and the convention was intended to interfere with the state of things existing at the time of its conclusion, and to impose upon Great Britain to withdraw from portions of territory occupied by it, a similar obligation would be contracted by other States acceding to the convention, [under the 6th article,] and the government of the Central American States would, by the mere act of accession, sign away their rights to the territories in which they are situated."

Confining himself strictly to this single view of the subject, the undersigned would observe, that, notwithstanding the general terms employed by the convention, an examination of its provisions, and especially of the sixth article itself, will prove it never intended that

the Central American States should become joint parties to this treaty with the United States, Great Britain, and other governments, exterior to Central America. These States are the subjects on which the guarantees of the convention were to act, and the exclusion of all other powers from the occupancy of Central America, with a view to the security not only of this canal, but all other canals or railroads across the isthmus, was one of the main objects to be accomplished by the treaty.

The Earl of Clarendon has himself indicated how absurd it would be for the Central American governments to become joint parties to this convention, according to the American construction. It would, however, be none the less absurd according to the British construction; because then no Central American State could accede to the treaty without confining itself forever within its existing boundaries, and agreeing not to add to its territory and extend its occupation under any possible circumstances which might arise in the future.

Besides, were it possible for Nicaragua, for example, to become a party to this joint convention, she would then take upon herself the extraordinary obligation to use her own influence with herself, under the 4th article, to induce herself to facilitate the construction of the canal, and to use her good offices to procure from herself "the establishment of two free ports, one at each end of the canal," both these ports being within her own limits. Consequences almost equally extraordinary would result from other portions of the convention.

But although the contracting parties could not have intended that the Central American States should become joint parties to the convention, yet they foresaw that it would be necessary to obtain stipulations from one or more of them, individually, providing for the security of the proposed canal, adapted to their anomalous condition and without interfering in any manner with their territorial possessions. Accordingly, in the sixth article, and in the clause next following that commented upon by the Earl of Clarendon, the convention provides as follows: "And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans, for the benefit of mankind, on equal terms to all, and of protecting the same," &c., &c.

In order to arrive at the conclusion that the Central American States are embraced in the general language of the first clause of the sixth article, it would be necessary to overlook this second clause entirely, or at least to regard it as unnecessary and without meaning.

The undersigned has the honor to renew to the Earl of Clarendon the assurance of his distinguished consideration.

JAMES BUCHANAN.

Right Hon. the EARL OF CLARENDON, &c., &c., &c.

Statement for Mr. Buchanan.

FOREIGN OFFICE, May 2, 1854.

The substance of the case submitted to her majesty's government by Mr. Buchanan may be briefly stated as follows :

1. That Great Britain, prior to April, 1850, was "in possession of the whole coast of Central America, from the Rio Hondo to the port and harbor of San Juan de Nicaragua, except that portion of it between the Sarstoon and Cape Honduras, together with the adjacent Honduras island of Ruatan."

2. That the government of the United States does not understand under what title Great Britain, having abandoned the greater part of these possessions in 1786, resumed them subsequently, nor does it know precisely at what period the protectorate of Great Britain over Mosquito was re-established, the first intimation which the United States government had received on the subject being from an American agent in 1842, and that, moreover, Captain Bonnycastle and other authorities had never represented the Mosquito shore as extending as far as the river and town of San Juan de Nicaragua, which latter the Spaniards had considered a place of much importance, and the key to the Americas.

3. That it appears to the United States government that Spain, in virtue of the treaty of 1786, had a right to object to Great Britain establishing herself on the Mosquito coast, or assuming the protectorate of Mosquito, and that Great Britain had, by her treaty with Mexico, recognized that the former colonies of Spain stood in the same position with respect to other States as old Spain herself, and inherited the advantages of the ancient treaties of the mother country; that the United States government had always contested the claim of Great Britain to all the possessions held by her in Central America, with the exception of that portion of the settlement of Belize which is situated between the Rio Hondo and the Sibun; that it had always resisted the right of Great Britain to establish a protectorate over the Mosquitos, and that it had learned with great surprise and regret that the British forces had, in 1848, expelled the Nicaraguan authorities, which held the port and town of San Juan de Nicaragua, in virtue of the old Spanish rights, and had then hoisted thereupon the flag of the Mosquitos.

4. That Mr. Monroe, when President of the United States, had, in 1823, announced in a public message to Congress that the American continents were not, henceforth, to be considered subject to colonization by European powers.

5. That no claim on the part of Great Britain to act in the name, or under the authority of the Mosquito Indians, could be well founded, inasmuch as that race, even if never conquered by Spain, were savages, who, according to the practice and principles of all European nations which had ever acquired territory on the continent of America, had no title to rank as independent States in the territory they occupied, but had a claim to mere occupancy thereon, such territory being the dominion of the discoverer of it, or even of the discoverer of territory on the same continent, though far distant from it, by whom, alone,

this claim to mere occupancy on the part of the Indians was to be extinguished by purchase, as the advances of the white settlements rendered it necessary.

And, finally, that Great Britain having declared by treaty, in 1850, that she would neither colonize, fortify, occupy, nor assume dominion over Mosquito or Central America, was thereby, at all events, bound to withdraw her protection from the people and territory of the Mosquitos, and moreover to deliver up Ruatan, which was an island belonging to Honduras, a Central American State, but which, nevertheless, had recently been colonized and occupied by Great Britain.

Such are the main points brought forward by Mr. Buchanan in the statement which he has delivered to her majesty's government.

If, in speaking of the possessions held by Great Britain previous to 1850 on the coast of Central America, (the settlement of Belize excepted,) Mr. Buchanan means that his expressions should apply to that district which is called the Mosquito country, it is proper that her majesty's government should at once state that her majesty has never held any *possessions* whatsoever in the Mosquito country. But although Great Britain held no *possessions* in the Mosquito country, she undoubtedly exercised a great and extensive influence over it as the protecting ally of the Mosquito king, that king or chief having occasionally been even crowned at Jamaica under the auspices of the British authorities.

The United States government will, it is apprehended, scarcely expect that Great Britain should enter into any explanations or defence of her conduct with respect to acts committed by her nearly forty years ago, in a matter in which no right or possession of the United States was involved.

The government of the United States would, it is conceived, be much and justly surprised if the government of Great Britain were now to question the propriety of any of its own long past acts by which no territorial right of Great Britain had been affected, nor would the American people consider any justification or explanation of such acts to foreign States consistent with the dignity and independent position of the United States. The government of the United States, therefore, will not be surprised if the government of Great Britain abstains, on this occasion, from entering into anything which might appear an explanation or defence of its conduct with regard to its long established protectorate of the Mosquitos.

With respect to any right or any interference of the government of old Spain, on the subject of the Mosquito protectorate, it must be observed that since the peace of 1815, that government has never raised any question with respect to this protectorate; and as for Great Britain having by her treaty with Mexico recognized, as a principle, that the engagements between herself and Spain were necessarily transferred to every fraction of the Spanish monarchy which now exists, or may exist, on a distinct and independent basis, her majesty's government must entirely deny this assumption. Great Britain, in her treaty with Mexico, simply stipulated that British subjects should not be worse off under Mexican independence than under Mexico when a Spanish province. It was natural, in recognizing the independence of Mexico,

that Great Britain should make such a stipulation, but the fact of her doing so rather proves that she thought a special stipulation necessary, and that she did not conceive that she would have enjoyed, under any general principle, the privilege she bargained for, and this stipulation, as indeed the treaty itself, is a proof that Mexico was not considered as inheriting the obligations or rights of Spain.

But admitting that it may, in some cases, be expedient, although not obligatory, to recognize the rights and obligations of old Spain as vested in the new Spanish American States, and allowing that, in conformity with that policy, Great Britain might have thought proper to receive, concerning Mosquito, the remonstrances of those neighboring republics which have successively risen in America on the ruins of the Spanish empire, even then, it may be observed, that no remonstrance was made by any such republics for many years after the protectorate of Great Britain over Mosquito had been a fact well known to them; and moreover, that when such remonstrances were made, they were made with similar pretensions, not by one only, but by several of those governments, insomuch, that if the Mosquito Indians were at this moment withdrawn altogether from the portion of America which they now inhabit, and if it were permitted to the States of Spanish origin to inherit each respectively the claims of their parent State, it would still be a question on which of the claimants the territory thus left unoccupied would of right devolve. Whilst it is certain that such withdrawal, without previous arrangements, would lead to contests alike disadvantageous to the real interests of the several States, and to the general prosperity of Central America herself.

Thus much with reference to the conduct and position of Spain and the Central American States with regard to the British protectorate in Mosquito; but with respect to the conduct and position of the United States relative thereto, Mr. Buchanan is mistaken in thinking that the United States government has always contested and resisted the position assumed by Great Britain on the Mosquito coast.

It may be true that the United States were not informed of the position of Great Britain in respect to Mosquito until 1842, but they were *then* informed of it; and yet there is no trace of their having alluded to this question in their communications with her majesty's government up to the end of 1849. Nay, in 1850, when the President of the United States presented to Congress various papers relative to the affairs of Central America, it will be seen that, on introducing these affairs to the attention of Congress, the President's Secretary of State for foreign affairs expressly says that the government of Nicaragua, in November, 1847, solicited the aid of the United States government to prevent an anticipated attack on San Juan, by the British forces acting on behalf of the Mosquito king, but received no answer; that the president of Nicaragua addressed the President of the United States at the same time, and received no answer; that in April, 1848, the United States consul at Nicaragua, at the request of the minister of foreign affairs of that republic, stated the occupation of San Juan by a British force, but was not answered; that on the 5th November, 1848, M. Castillon, proceeding to London from Nicaragua, and then to Washington, addressed a letter to the United

States Secretary of State, soliciting his intervention with regard to the claims of Great Britain in right of the Mosquito king, and received no answer; that on the 12th of January, 1849, Mr. Bancroft, then representative of the United States to the court of St. James, referring to Mr. Castillon's arrival in London, and the subject of his mission to settle the affairs of San Juan de Nicaragua with the British government, said, "I think it proper to state to you my opinion, that Lord Palmerston will not recede. I have, of course, taken no part;" and that again, in March, Mr. Bancroft wrote that Mr. Castillon would be anxious to seek advice from the United States, but that he had always made answer to him "that he was not authorized to offer advice."

It would thus seem, on the authority of the United States government itself, that up to the end of 1849 the United States government had made no remark or remonstrance to Great Britain on the subject of her protectorate of Mosquito, and that even with respect to the capture of San Juan de Nicaragua (now called Greytown) the United States minister in London was not authorized to take any steps concerning it, nor even to afford to the commissioner from Nicaragua the benefit of his counsels and good offices thereupon; and it is but right to observe that the United States government pursued by this course towards her majesty's government that friendly and considerate policy which her majesty's government always wishes to pursue and has pursued towards the United States government when that government has had differences with other powers. With regard to the grounds on which her majesty's government made the capture of San Juan de Nicaragua in 1848, the desire of her majesty's government to avoid all subjects of controversy, in which it is not absolutely necessary to enter, restrains it from here adverting to the documents which stated the reasons on which her majesty's government came to the resolution it at that time adopted; and, indeed, as those documents were laid before parliament and communicated officially to the United States government, it would be superfluous now to recapitulate their contents.

With regard to the doctrine laid down by Mr. President Monroe, in 1823, concerning the future colonization of the American continent by European States, as an international axiom which ought to regulate the conduct of European States, it can only be viewed as the dictum of the distinguished personage who delivered it; but her majesty's government cannot admit that doctrine as an international axiom which ought to regulate the conduct of European States. The doctrine with regard to the incapacity of the Indians to exercise the rights of sovereign powers must also remain a doctrine on which each State which has to deal with such Indians must be free to exercise its own policy and to follow the dictates of its own conscience. It is certainly true that Great Britain, Spain, and the United States were all at one time in the habit of treating the Indian races in the manner which Mr. Buchanan describes, but this past practice, though general, cannot be taken as an invariable guide for any future policy. The period has not yet passed beyond the memory of man at which Great Britain and the United States, now so nobly distinguished in sup-

pressing the slave trade, practised and encouraged that trade, and deemed it legitimate.

The project of a free republic, composed chiefly of negroes from the United States, and originally established under the enlightened and humane patronage of the United States, would have been deemed fifty years ago an absurd and impossible chimera; yet Liberia exists, and now flourishes as an independent State.

Already Great Britain, in her own dealings with Indians, has recognized their rules as independent chiefs, whilst in her treaties with foreign powers she has spoken of their tribes as nations, and stipulated for the restoration of their possessions. Thus, on all the above mentioned topics her majesty's government, without seeking to impose any opinions on the United States government, claims a right to hold its own opinions; nor indeed does it appear necessary, although, doubtless, it would be desirable that her majesty's government and the United States government should be perfectly agreed with respect to them. The one remaining subject to be discussed is, however, of a very different character. It relates to a question in which Great Britain and the United States are both directly concerned, and in regard to which it is a matter both of honor and interest that they should avoid all misunderstanding or disagreement. This subject is the rightful interpretation of a treaty engagement to which Great Britain and the United States are parties.

Mr. Buchanan lays it down as a fact that Great Britain held the sovereignty of the Mosquito coast prior to 1850, and he then states that Great Britain still continues to hold this sovereignty, although the treaty of 1850 prohibits her from so doing. But Mr. Buchanan confounds the two conditions of a sovereignty and of a protectorate, and under this error treats the agreement "not to colonize, nor occupy, nor fortify, nor assume, nor exercise dominion over," as including an agreement not to protect.

With respect to sovereignty, great Britain never claimed, and does not now claim, or hold any sovereignty in or over Mosquito; but with respect to the protectorate which Great Britain has long exercised over Mosquito, her majesty's government asserts that the treaty of 1850 did not, and was not meant to, annihilate such protectorate, but simply to confine its powers and limit its influence.

Now, the spirit of the treaty must always be inferred from the circumstances under which it takes place, and the true construction of a treaty must be deduced from the literal meaning of the words employed in its framing. The circumstances under which the treaty of 1850 took place were the following:

Up to March, 1849, *i. e.* one whole year after the capture of San Juan de Nicaragua by the British forces, the United States government made no observation, as has already been stated, to the British government having any allusion to this act. But in November, 1849, Mr. Lawrence, then just arrived in England as the representative of the United States government, addressed a note to Lord Palmerston, not asking any question as to the British protectorate of Mosquito, but requesting to know whether her majesty's government would join with the United States in guaranteeing the neutrality of a ship canal,

1 railway, or other communication between the two oceans, to be open to the world, and common to all nations, and whether the British government intended to occupy or colonize Nicaragua, Costa Rica, the Mosquito coast, so called, or any part of Central America. To this note Lord Palmerston replied, by stating that her majesty's government had no intention to occupy or colonize Nicaragua or Costa Rica, the Mosquito coast, nor any part of Central America, and that her majesty's government would feel great pleasure in combining and co-operating with the government of the United States for the purpose of assisting the operations of a company which might be formed with a view to establish a general communication, by canal or railroad, across the isthmus separating the northern and southern portions of the American continent, both by offering security for the works while in progress and when completed and in use, and by placing such communication, through the means of political arrangements, beyond the reach of molestation, disturbance, or obstacle, by reason of international disputes which may at any time unfortunately arise, upon the conditions, moreover, that such communications should at all times be open and accessible for the commerce of all nations, and on equal terms for all. These notes, copies of which are herewith annexed, are of great importance, inasmuch as they laid the foundation for the subsequent convention of Washington, whilst they explain the nature of the feelings entertained at that time by the United States government and by the government of her majesty. It was clear that the United States government, which had regarded the affairs of Central America not long before with comparative indifference, had had its attention lately called to this part of the world by its acquisition of California, and the discovery of the ore which that region was found to contain, circumstances which rendered of vast importance some safe and rapid means of communication between the possessions of the United States on the Pacific and the possessions of the United States on the Atlantic. A project of a canal communication, moreover, through the State and Lake of Nicaragua and the river San Juan was then in contemplation, and Nicaragua had granted to a company of American citizens whatever rights it possessed over the proposed line of traffic.

— Great Britain, however, by having placed a people under her protection in possession of the port and town of San Juan de Nicaragua, might exert her influence either to prevent this canal being formed, or, if she allowed it to be formed, might aim, through her protectorate, at acquiring over such canal peculiar rights or absolute control.

The government of the United States was, therefore, justly anxious to know whether the British government would favor or impede the construction of a canal by the river San Juan, and whether it would attempt to establish a predominant and permanent power over this canal, by colonizing, fortifying, occupying, or taking absolute possession of the country through which it passed.

The mere protectorate of Great Britain, stripped of those attributes which affected the construction and the freedom of the proposed canal,

was of small consequence to the United States, but, connected with those attributes, it was a matter of great importance.

On the other hand, her majesty's government, which had just expelled the Nicaraguans from Greytown (or San Juan de Nicaragua) and the country adjacent, and had formally discussed and finally rejected the claims of the Nicaraguan government to these contested possessions, could not with honor or credit retire, at the mere interposition of the United States, from the position it had assumed, or abandon the long established British protectorate over the Mosquitos, and allow the authorities of Nicaragua to re-occupy the ground from which they had so recently been driven. But Great Britain could clearly engage herself to the United States to do all that was required respecting the construction and protection of any canal communication, to be enjoyed on equal terms by all nations; and she could also limit the powers of her protectorate over Mosquito, so as to remove all suspicion or possibility of her using it in any manner that would place such canal communication under her exclusive authority and dominion.

Thus, when the drawing up of a treaty afterwards took place, the object of the British negotiator and, it must be presumed, that of both negotiators, necessarily was to draw up such a convention as, without conceding any specific point on which one party could not in honor yield, would make such concessions on all other points as the other party desired, and if the convention in question he referred to, it will be seen that it is drawn up carefully, in such a manner as to make it a matter of indifference, so far as the canal is concerned, as to whether the port and town of San Juan are under the modified protectorate of Great Britain or under the government of Nicaragua. Moreover, in drawing up this treaty, both Mr. Clayton and Sir H. L. Bulwer referred to the notes which had passed between Lord Palmerston and Mr. Lawrence, and even made use of the precise terms which had been then employed, from which it must of necessity be inferred that they meant to transfer to their convention, with the words which they borrowed, the meaning which had previously been attached to those words in the documents from which they extracted them; and a reference to such documents will at once show that Mr. Lawrence, while he asked her majesty's government whether it meant to occupy, fortify, colonize, or assume or exercise dominion over Mosquito, did not allude to the protectorate of Great Britain over that country, and that Lord Palmerston, in declaring that her majesty's government did not intend to do any of these things, expressly left the question concerning the political relations between Great Britain and the Mosquitos untouched. So much for the spirit which presided over the convention of 1850.

With regard to the literal meaning, this treaty declares in words that the two parties "will not occupy nor fortify, nor colonize, nor assume nor exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, nor any part of Central America;" and that neither party will "make use of any protection which either affords or may afford, or any alliance which either has or may have" with any State or people, for the purpose of occupying, fortifying or colonizing Nicaragua,

Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same.

Mr. Buchanan says, with regard to that portion of the foregoing sentence which restricts the use which Great Britain or the United States might make of any protection which either might afford to any State or people, it has been said that this article of the convention acknowledges by implication the protectorate of Great Britain over Mosquito. Now her Majesty's government does not pretend that in this article the United States acknowledges the aforesaid protectorate of Great Britain in Mosquito; it was never the intention of her majesty's government, or that of the British negotiator, to obtain indirectly that which was not asked for openly; but it is evident that this article clearly acknowledges the possibility of Great Britain or the United States affording protection to Mosquito, or any Central American State, and that the intention of the parties was not to prohibit or abolish, but to limit and restrict such protectorate. But supposing all mention of protection in the treaty had been omitted, and that the question at issue merely rested on the words "colonize, fortify, occupy and assume or exercise dominion over," is there any one of these terms which excludes the right of protection, although each of them limits its capability? Defending or protecting is a temporary act of friendship; occupying, colonizing, fortifying, or acquiring sovereignty, are acts which have a permanent result.

It has never been held that neutral territories or kingdoms, over which other kingdoms are prohibited by treaty from acquiring dominion—which other kingdoms cannot colonize, occupy, nor fortify—may not be defended by such kingdoms at the desire and request of the neutral States, although it would doubtless be necessary for any nation undertaking such defence to declare formally and promise clearly that it would not turn this transitory and allowable act into one of a continuous nature, which engagements had prohibited.

No one will maintain that the bar to colonization or fortifying is a bar to all protection; no one will assert that to afford protection to a State and establish dominion over it are necessarily the same thing; no one will contend that to send a naval or military force for the purpose of expelling an enemy from the territory of an ally, or of punishing his antagonist, is to hold or occupy the territory of that ally or of his enemy.

Were this the sense of the word, as inserted in the treaty of 1850, as that word is equally applied to all Central America as well as to Mosquito, it would have a far wider signification than her majesty's government contemplated, or than the United States government would in all probability admit, for in such a case neither Great Britain nor the United States could, in any circumstance, employ force, naval or military, against any Central American State, however great or just the provocation they might receive.

The citizens of the United States, for instance, might, on their way from California to Washington, be arrested and confined, on any suspicion or pretext, and the demands of the United States for their release refused. But is it to be argued that, under such circumstances, the United States could not send an armed force into Nicaragua to compel the

release of the citizens from California, and chastise those who had unjustly incarcerated them? The United States government, however, would be bound to state the object it had in view in sending a force into Nicaragua; it would be bound to declare that it did not mean to colonize, fortify, occupy, or establish its sovereignty over Nicaragua, and by adhering to this pledge its treaty obligations would be fulfilled. But surely this dispute, as to the nature and meaning of protection, is one that should not have arisen with respect to the treaty of 1850. The very object and nature of that treaty ought to manifest that protection is not equivalent to occupation or sovereignty, and that it does not of necessity imply the acquisition of any exclusive advantages to the parties protecting, or give those parties exclusive control over that which is protected.

Great Britain and the United States, by the said treaty, bind themselves to protect certain canals or railways which may be formed through various independent States. Great Britain and the United States do not, by this protection, acquire any right of sovereignty or occupation over such canals or railways, whilst they carefully exclude themselves from having any exclusive control over them, and from deriving from them any exclusive privileges.

It is surely unnecessary further to discuss the construction of the treaty with reference to the protection of Mosquito. That her majesty's government merely expresses now that view of the treaty which it entertained, and which it had understood that the government of the United States entertained, when the treaty was concluded, is evident from the fact that, within little more than a month after the treaty of 1850 had been ratified, her majesty's minister at Washington entered into further negotiations with the government of the United States relative to the position of Mosquito, interpreting the treaty as her majesty's government now interprets it. That there was nothing extraordinary, unnatural, or unfair, in the interpretation thus given to the treaty by her majesty's government, is equally evident from the fact that such interpretation was at once accepted by the Secretary of State, Mr. Webster, than whom no statesman at that time living, whether in Europe or America, was more fitted to comprehend the spirit or analyze the wording of any international obligation; and that her majesty's government was not at that time; and is not now, animated by any such object as that of obtaining any peculiar influence or control over the river San Juan or the canal that may be formed from its waters, is likewise demonstrated by the circumstance worth noting, that the object which Great Britain had in view in pursuing these further negotiations with the United States was that of withdrawing her protection from the very town called Greytown, or San Juan de Nicaragua, and the adjoining territory, and of placing the same in the hands of some Central American State, on conditions in nowise beneficial to herself, or only beneficial in so far as such conditions tended to maintain a state of peace and tranquillity in that part of the world to which they related, and to preserve the Mosquitos in a territory bordering that which was to be ceded in an inoffensive state of neutrality and security.

Indeed, when her majesty's minister, in a conversation which took place about the end of July, 1851, on this subject, agreed, on the part of the British government, to assign Greytown to Nicaragua, upon her coming to a fair settlement with Costa Rica as to some of the points of contention between them, and upon her agreeing to leave the Mosquito people unmolested within certain portions of the territory which they now occupy, and over which the Spanish dominion never, otherwise than nominally, extended, Mr. Webster, whilst observing that the United States had no direct interest in any question concerning Nicaragua and Mosquito, except as respected the construction of a canal and its free navigation, and that, consequently, he did not wish to take an active part in any negotiations extending beyond these limits, added, addressing himself to the Nicaraguan minister, who was present, that he considered the offer made by the British minister was one which the Nicaraguan government might consider as a fair basis for an arrangement, and her majesty's government then entertained the hope and belief that by the friendly understanding subsisting between Great Britain and the United States, and the joint efforts of both, such a settlement would be speedily concluded between all the parties interested as would enable her majesty's government to release itself from the duty of protecting or defending Greytown, in which, for the time being, a self-elected body, in a great measure composed of United States citizens, was carrying on the government in the name of the king of Mosquito.

The preceding observations comprise all that her majesty's government has now to say with regard to that portion of Mr. Buchanan's statement to which they have been intended to reply.

But, although the connexion of Great Britain with Mosquito formed one of the subjects of Mr. Buchanan's communication, another subject, not less important, is the actual condition of British Honduras, Ruatan, and the Bay Islands.

It was never in the contemplation of her majesty's government, nor in that of the government of the United States, that the treaty of 1850 should interfere in any way with her majesty's settlement at Belize, or its dependencies.

It was not necessary that this should have been particularly stated, inasmuch as it is generally considered that the term "Central America," a term of modern invention, could only appropriately apply to those states at one time united under the name of the "Central American republic," and now existing as five separate republics; but in order that there should be no possible misconception at any future period relative to this point, the two negotiators, at the time of ratifying the treaty, exchanged declarations to the effect that neither of the governments they represented had meant in such treaty to comprehend the settlement and dependencies in question.

Mr. Clayton's declaration to her majesty's government on this subject was ample and satisfactory, as the following extract from his note of July 4, 1850, will show:

"The language of the first article of the convention concluded on the 19th day of April last, between the United States and Great Britain, describing the country not to be occupied, &c., by either of the

parties, was, as you know, twice approved by the government, and it was neither understood by them, nor by either of us (the negotiators) to include the British settlement in Honduras, (commonly called British Honduras,) as distinct from the State of Honduras, nor the small islands in the neighborhood of that settlement, which may be known as its dependencies.

"To this settlement and to these islands the treaty we negotiated was not intended by either of us to apply. The title to them, it is now and has been my intention, throughout the whole negotiation, to leave as the treaty leaves it, without denying or affirming, or in any way meddling with the same, just as it stood previously.

"The chairman of the committee on foreign relations of the Senate, the Hon. W. R. King, informs me that the Senate perfectly understood that the treaty did not include British Honduras." Such having been the mutual understanding as to the exception of the settlement of Belize and its dependencies from the operation of the treaty, the only question relative to this settlement and its dependencies, in reference to the treaty, that can now arise, is as to what is the settlement of Belize and its dependencies, or in other words, as to what is British Honduras and its dependencies? Her majesty's government certainly understood that the settlement of Belize, as here alluded to, is the settlement of Belize as established in 1850; and it is more warranted in this conclusion from the fact that the United States had, in 1847, sent a consul to this settlement, which consul had received his exequatur from the British government, a circumstance which constitutes a recognition by the United States government of the settlement of British Honduras under her majesty as it then existed.

Her majesty's government at once states this, because it perceives that Mr. Buchanan restricts the said settlement within the boundaries to which it was confined by the treaty of 1786, whilst her majesty's government not only has to repeat that the treaties with old Spain cannot be held, as a matter of course, to be binding with respect to all the various detached portions of the old Spanish American monarchy, but it has also to observe that the treaty of 1786 was put an end to by a subsequent state of war between Great Britain and Spain; that during that war the boundaries of the British settlement in question were enlarged, and that when peace was re-established between Great Britain and Spain no treaty of a political nature, or relating to territorial limits, revived those treaties between Great Britain and Spain which had previously existed.

Her majesty's government, in stating this fact, declares distinctly, at the same time, that it has no projects of political ambition or aggrandizement with respect to the settlement referred to; and that it will be its object to come to some prompt, fair, and amicable arrangement with the States in the vicinity of British Honduras for regulating the limits which should be given to it, and which shall not henceforth be extended beyond the boundaries now assigned to them.

As to Ruatan and the adjoining islands, all that can be debateable as to them is, whether they are island dependencies of Belize or attached to some Central American State. Now it cannot be disputed,

that whenever Ruatan has been permanently occupied, either in remote or recent times, by anything more than a military guard or flag staff, the occupation has been by British subjects.

It is true that the republic of Central America declared that it had had a flag flying in that island from 1821 to 1839; but this fact merely rested on that republic's declaration, and all that is positively known is, that when the British government were aware that a foreign flag was flying at Ruatan, a British ship-of-war was sent to haul it down, and since that time no attempt has been made to re-establish it; but on the contrary, when on two or three occasions complaints have been brought by the citizens of Central American States against the settlers in Ruatan, to the commandant at Truxillo, the commandant has referred them to Belize, telling them that the island was British.

It is, moreover, a fact, that Ruatan has been, of late years, without any instigation on the part of her majesty's government, spontaneously occupied by British subjects, and that the superintendent of Belize has been in the habit of visiting the island, appointing the magistrates in it, and generally managing its affairs. In going back to ancient times it is also well known that, in 1742, the English were formally settled at Ruatan, and that in the Atlas of the West Indian islands, published by Jeffries, the king's geographer, in 1796, Rattan, or Ruatan, is colored as a British possession; and although this island and that of Bonacea have doubtless been at various times left unoccupied, and at others claimed or held by other powers, it is certain that in 1838, 1839, and 1840, Great Britain not only asserted her right to the same, but declared her intention to maintain that right by force.

These circumstances, without entering further into the subject, will at least prove that the pretensions of Great Britain to consider Ruatan and Bonacea dependencies of Belize is of long standing, and existed certainly at the period of the treaty of 1850. Indeed, Mr. Buchanan, in his statement, observes that Ruatan was occupied in 1850 by Great Britain.

But if Ruatan was at that time known to be occupied by Great Britain as a settlement of Belize, and the United States government, notwithstanding, considered it to have been a portion of Central America, and thereby comprehended in the treaty, which Belize and its dependencies were not, the United States government would, beyond doubt, have openly stated that it did not consider Ruatan included in the term "island dependencies," and Great Britain was therefore justified, since no such exception was made, in deeming that her claim to Ruatan as a part of the Belize settlement was not about to be disputed.

Her majesty's government deems that it has, by the foregoing observations, furnished an adequate reply to the statement of Mr. Buchanan, and proved that the obligations of the treaty have in no respect been infringed. But having performed this duty, her majesty's government desires to say that it would be far more to its satisfaction to arrange, on fair terms, any differences of opinion with the government of the United States, than to prolong discussion and argument respecting such differences.

It has also no difficulty in adding, that although it did not, by the treaty of 1850, abandon the right of Great Britain to protect the Mosquitos, yet it did intend to reduce and limit the exercise of that right; the practical difference between Great Britain and the United States with regard to the only mutually important portion of Mosquito, namely, that portion to which the construction and condition of the canal which formed the origin and basis of the treaty of 1850, applies, is very small indeed. That difference does not turn upon the point whether Great Britain should retain her protection over the port and town of San Juan and the northern bank of that river, but upon the conditions on which that protection should be withdrawn.

In short, the practical question at issue, relative to Greytown and that part of the Mosquito country bordering upon the river San Juan, is not whether Great Britain should, directly or indirectly, exercise dominion over the same, but whether Nicaragua, or some other equally independent State, should obtain possession thereof in a manner consonant with the honorable obligations of Great Britain, the peace of the Central American continent, and the safety from persecution of the Mosquito Indians; or, on the other hand, whether Nicaragua should be put in possession of that territory in a manner almost certain to produce hostilities between Nicaragua and Costa Rica, and to lead to the persecution and destruction of the Mosquito people, an alternative to which Great Britain could not consent, and which the government of the United States could have no motive in requiring.

It is true that in that more remote portion of the Mosquito territory where the chief or king of the Mosquitos himself resides a British consul or agent also resides, and this resident may oftentimes be called upon to give his opinion or advice to the Mosquito government, as is usual when weak governments are in alliance with strong ones, more especially when those strong ones have agreed to protect the weak ones from external aggression, and may, therefore, reasonably expect to have such influence over their policy as may prevent them from giving just pretext for invasion.

It is true, also, that Englishmen may thus be in the councils of the king of Mosquito, acting as his ministers, but Englishmen and Americans both hold the same position in the Sandwich Islands, the government of which is carried on by foreigners, but is nevertheless (and the race is Indian) considered and treated as independent. To alter this state of things might at the present moment be impossible, but her majesty's government would be ready and willing to enter into such engagements as should prevent Great Britain from receiving any privileges or advantages from the Mosquito government not granted to other States.

Her majesty's government can hardly anticipate any difficulty at this time with the United States respecting the continental establishment of Honduras, the limits of which, in 1850, were so well known and can be so easily ascertained, and which will not be extended; but having shown that its pretensions to the islands of Ruatan and Bonacea are of no recent date, and that they were unquestioned by the United States government in 1850, her majesty's government cannot admit that an alteration in the internal form of government of these islands

is a violation of the treaty; or affords a just cause of remonstrance to the United States.

There are at all times two modes of dealing with matters of business between nations, the one calculated to excite mutual irritation, the other to mitigate it; the one tending to prolong and increase differences, the other to diminish and remove them.

The latter is the mode which her majesty's government earnestly desires in the present instance to adopt and to see adopted, for it can hardly be necessary to say that there is no government with which the people and government of Great Britain more sincerely desire to live in intimate and friendly relations than that of the United States. It is in accordance with the spirit which her majesty's government thus distinctly avows that her majesty's government proposes to that of the United States.

That the two governments of Great Britain and the United States should at once endeavor to come to some friendly understanding as to the government which should be definitively formed at Greytown, in order to admit of the Mosquito authority being withdrawn therefrom; and as to the engagements which such government should enter into with regard to the claims of Costa Rica and the future non-molestation of the Mosquitos; and that the two governments should endeavor, in the same manner, to come to some friendly understanding as to the mode by which protection may be most effectually afforded to the Mosquito Indians.

It is the desire of her majesty's government not only to maintain the convention of 1850 intact, but to consolidate and strengthen it, by strengthening and consolidating the friendly relations which it was calculated to cement and perpetuate. Her majesty's government regrets that any misunderstanding should have arisen with respect to its terms; but it entertains the firm belief that by the explanations it has now given, and the proposals it makes, that misunderstanding will be completely removed.

CLARENDON.

Remarks in reply to Lord Clarendon's statement of May 2, 1854.

UNITED STATES LEGATION,
London, July 22, 1854.

It would not seem necessary to extend these remarks by pointing out what might be deemed inaccuracies in Lord Clarendon's introductory resumé of the points in Mr. Buchanan's statement of January 6, 1854, nor of the order in which these points have been presented. It is sufficient to observe that the sixth and last point of this resumé, embracing the true construction of the convention of April 19, 1850, and which was the first discussed in Mr. Buchanan's statement, being by far the most important, it is entitled to precedence.

The American government cordially reciprocates the desire expressed by that of Great Britain, "to live on intimate terms and friendly relations" with the United States. Strong bonds of interest and affinity

ought to unite the two nations in perpetual peace and friendship. Mr. Buchanan therefore deplores the unhappy misunderstanding which exists between them, in regard to the construction of a convention, which it was believed on the part of the American government would terminate all their pre-existing difficulties in Central America. How unfortunate would it be if this convention, instead of settling, should only complicate these difficulties.

In replying to the British statement, whilst it has become his duty to maintain the proposition that Great Britain has failed to carry into effect the provisions of the convention—a subject in its nature intrinsically delicate—he will endeavor to perform the task in a manner consistent with the exalted respect which he entertains for Great Britain.

The rights and the duties of the parties must be regulated by the first article of the convention of April 19, 1850, and these observations shall, therefore, be primarily directed to the ascertainment of its true meaning. The following is a copy of its text: "The governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing, that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to, or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connexion, or influence that either may possess, with any State or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal, which shall not be offered on the same terms to the citizens or subjects of the other."

In the course of these remarks it is proposed to maintain, that this article requires Great Britain to withdraw from the possession of Ruatan and the other Bay Islands, the Mosquito coast and the territory between the Sibun and the Sarstoon. The Belize settlement will demand a separate consideration.

What, then, is the fair construction of the article? It embraces two objects. 1. It declares that neither of the parties shall ever acquire any exclusive control over the ship canal to be constructed between the Atlantic and the Pacific by the route of the river San Juan de Nicaragua, and that neither of them shall ever erect or maintain any fortifications commanding the same or in the vicinity thereof. In regard to this stipulation, no disagreement is known to exist between the parties. But the article proceeds further in its mutually self-denying policy, and in the second place declares that neither of the parties will "occupy or fortify, or colonize, or assume, or exercise

any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America."

We now reach the true point. Does this language require that Great Britain shall withdraw from her existing possessions in Central America, including "the Mosquito coast?" The language peculiarly applicable to this coast will find a more appropriate place in a subsequent portion of these remarks.

If any individual enters into a solemn and explicit agreement that he will not "occupy" any given tract of country then actually occupied by him, can any proposition be clearer than that he is bound by his agreement to withdraw from such occupancy? Were this not the case, these words would have no meaning, and the agreement would become a mere nullity. Nay more, in its effect it would amount to a confirmation of the party in the possession of that very territory which he had bound himself not to occupy, and would practically be equivalent to an agreement that he should remain in possession—a contradiction in terms. It is difficult to comment on language which appears so plain, or to offer arguments to prove that the meaning of words is not directly opposite to their well known signification.

And yet the British government consider that the convention interferes with none of their existing possessions in Central America; that it is entirely prospective in its nature, and merely prohibits them from making new acquisitions. If this be the case, then it amounts to a recognition of their rights, on the part of the American government, to all the possessions which they already hold, whilst the United States have bound themselves by the very same instrument never, under any circumstances, to acquire the possession of a foot of territory in Central America. The mutuality of the convention would thus be entirely destroyed; and whilst Great Britain may continue to hold nearly the whole eastern coast of Central America, the United States have abandoned the right for all future time to acquire any territory, or to receive into the American Union any of the States in that portion of their own continent. This self-imposed prohibition was the great objection to the treaty in the United States at the time of its conclusion, and was powerfully urged by some of the best men in the country. Had it then been imagined that whilst it prohibited the United States from acquiring territory, under any possible circumstances, in a portion of America through which their thoroughfares to California and Oregon must pass, the convention, at the same time, permitted Great Britain to remain in the occupancy of all her existing possessions in that region, Mr. Buchanan expresses the confident conviction that there would not have been a single vote in the American Senate in favor of its ratification. In every discussion it was taken for granted that the convention required Great Britain to withdraw from these possessions, and thus place the parties upon an exact equality in Central America. Upon this construction of the convention there was quite as great an unanimity of opinion as existed in the House of Lords, that the convention with Spain of 1786 required Great Britain to withdraw from the Mosquito protectorate.

There is the strongest reason to believe that the same construction was placed upon the convention, by the government of Great Britain,

at the time of its conclusion. If this were not the case, why their strenuous efforts, before the ratifications were exchanged, to have the British settlement of Belize specially excepted from its operation? Upon the opposite construction of the convention it ought to have been their desire to place that settlement under its protection, and thus secure Great Britain in its occupancy.

The conduct of the government of Great Britain, on this occasion, can be satisfactorily accounted for only upon the principle that, perceiving the language of the convention to be sufficiently explicit and comprehensive to embrace Belize, they must have made these efforts to prevent the necessity of their withdrawal from that settlement. And as no attempt was made to except any other of their possessions from its operation, the rule that *expressio unius est exclusio alterius* applies to the case, and amounts to an admission that they were bound to withdraw from all their other Central American possessions.

If this be the true construction of the convention, as well as its manifest spirit, then let us apply it to the objects it was intended to embrace. And first of Ruatan—thus, for the present, disembarassing ourselves from the Mosquito protectorate.

It is not denied by the British statement, that Ruatan "is clearly a Central American island," "and but thirty miles distant from the [Honduras] port of Truxillo." Indeed it was impossible that this could be denied. Why, then, is this island not embraced by the convention? The only reason given for it is the allegation that Ruatan and the adjacent islands were dependencies of Belize, and were protected from the operation of the convention by Mr. Clayton's declaration of the 4th July, 1850. Now admitting, for the sake of argument, that this declaration is binding on the United States, to what does it amount? Its language is very explicit. The convention was not understood by either of the negotiators, says Mr. Clayton, "to include the British settlement in Honduras, (commonly called British Honduras, as distinct from the State of Honduras,) nor to the small islands in the neighborhood of that settlement which may be known as its dependencies."

"The small islands in the neighborhood of that settlement"—What are they? These are undoubtedly Cayo Casina and "the cluster of small islands" on the coast, at the distance of "three leagues from the river Sibun," particularly specified in the British convention with Spain of 1786. Indeed the same construction would seem clearly to have been placed upon this convention by the British minister at Washington, in his letter to Mr. Clayton of the 7th January, 1854, a copy of which is doubtless in the possession of Lord Clarendon. It would be a strained construction of Mr. Clayton's carefully guarded language to make his "small islands in the neighborhood" embrace the comparatively large and very important island of Ruatan, with its excellent harbors, not in the neighborhood but hundreds of miles distant; an island represented "as the key of the Bay of Honduras and the focus of the trade of the neighboring countries," which is considerably larger, according to Captain Henderson, than many of the West India Islands in cultivation; and in its soil and natural advantages not inferior to any of them. This would be to make the

dependency far more valuable than the principal, and to engraft an absolute sovereignty upon a mere usufruct. And here it may be proper to observe, that the quotation "island dependencies" in the British statement, if intended to be made from any part of Mr. Clayton's declaration, is an incorrect quotation. His language is not "island dependencies," but "small islands in the neighborhood of Belize." This island is then clearly a Central American island in the neighborhood, not of Belize, but of the State of Honduras; and in the language of Mr. Clayton's statement, so much relied upon, is one of "the proper dependencies" of that State, and is therefore embraced by the treaty. Indeed it would be little short of an absurdity for Mr. Clayton to have excepted, as it is contended he ought to have done, from his declaration, including only "the small islands in the neighborhood" of Belize, the distant, large and valuable island of Ruatan. And yet it is alleged, from his omission to do this, that Great Britain was justified "in deeming that her claim to Ruatan as a part of the Belize settlement was not about to be disputed."

The British statement seems to attach considerable importance to the fact, but why it is difficult to conceive, that "Mr. Buchanan in his statement observes that Ruatan was occupied in 1850 by Great Britain." It was for the very reason that not only Ruatan, but nearly the whole eastern coast of Central America, were occupied by Great Britain, that the government of the United States were so anxious to conclude a convention requiring her to withdraw from this occupation. It was for this reason that the United States, as an ample consideration for this withdrawal, bound themselves never to occupy any portion of Central America. But for this agreement to withdraw, the United States, in self-defence, would have been compelled to accept cessions of territory in Central America; because, without such territory, Great Britain would have been left in a position absolutely to command not only the projected canal by the Lake Nicaragua, but all other canals and railroads which may be constructed through any part of the isthmus. The convention was, therefore, not confined to this single route, but extended its protection "to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America." Both parties were to stand aloof, and neither of them was to occupy territory in the vicinity of any of these routes, much less an island, which, from its position and excellent harbors, would enable a strong naval power in possession of it to close any canals or railroads which might be constructed across the isthmus.

Now, whether Great Britain was in the occupation of Ruatan at the date of the convention by a good or by a bad title, cannot make the least difference in regard to the construction of that instrument. The case might have been different had the question arisen between her and the State of Honduras. The question between the United States and Great Britain, however, is not as to the validity of her title, but no matter what it may have been, whether she has not agreed to abandon her occupation under this title. Not what was the state of things before, but what she agreed it should become after the conclusion of the convention. Still, out of deference to the British state-

ment, which contends that the British title was good to this island at the conclusion of the convention, it is but proper to examine the reasons on which this claim was founded.

Ancient possession is invoked to sustain this claim, and it is said that "it is well known that [in] 1742 the English were formally settled at Ruatan;" but, in reply, it may be stated that this possession was speedily abandoned. We are informed by Rees's Cyclopædia, published in London in 1819, that "the English, in the year 1742, formed a settlement here [in Ruatan] for the purpose of carrying on the logwood trade, *but it was soon abandoned.*"

In answer to the map published by Jeffries in 1796, cited by Lord Clarendon, it may be observed that there is another copy of the very same map in the British Museum, published in the same year, on which Ruatan is not colored as a British possession. At the date of this map, more than a half a century ago, the geography of that portion of America was comparatively but little known. For this reason, the map published at London in 1851, "by James Wyld, Geographer to the Queen," "of the West India and Bahama islands, with the adjacent coasts of Yucatan, Honduras, Caraccas," &c., also to be found in the British Museum, is of much higher authority, and upon its face Ruatan and the other Bay Islands are assigned to Honduras. The same view is presented by the same author on a former "map of the West India and Bahama islands," &c., published in 1849, and now in possession of the legation.

It may also be confidently asserted as a well known historical fact, that if the English were in the occupation of Ruatan, at the date of the treaty with Spain of 1786, they abandoned it immediately thereafter in obedience to that treaty. Brook's General Gazetteer, published at London in 1853, distinctly states this fact. It says, "this beautiful island, partially covered with wood, was once in possession of the English, who fortified its excellent harbor, *but abandoned it when they withdrew from the Mosquito shore.*" And Johnson, in his Dictionary of Geography, published in London in 1851 and 1852, describes it as an island off the north coast of Central America, "*formerly belonging to the English.*"

"Near its southern extremity is a good harbor, with batteries erected by the English during their former occupation."

At what period, then, after the convention of 1786, did this island cease to be Spanish and become English? It is admitted by Captain Henderson, an officer of the British army, in his account of the British settlement of Honduras, an authority which will not be disputed, that it was still a Spanish island in 1804. The next we hear of it is that it was in the possession of Honduras, as the successor of Spain, in 1830, whilst the confederation of the Central American States still continued to exist; and was in that year (not in 1835, as in the former statement) captured from that State by the British forces; but was soon afterwards restored. The following extract from Crowe's "Gospel in Central America," an able and interesting work, prepared after personal observation, and published in London, in 1850, gives a correct account of the transaction. The author says, 1830: "The only notable breach upon peace and good order was the seizure

of the island of Ruatan, in the bay of Honduras, by the authorities of the neighboring British settlement. But upon complaint by the federal government, the act of the superintendent of Belize was theoretically disallowed by his government, though it has since been practically repeated in precisely the same quarter and under the sanction of the same power." There is other evidence of a similar character in possession of Mr. Buchanan, but as it proceeds from American sources it is deemed best to let the facts, especially as they have not been contradicted by the British statement, rest upon the authority of a British author of highly respectable character. The author then proceeds to speak in indignant terms of its second capture and annexation in 1841, denouncing it as an "inglorious revolution."

Lord Clarendon, in his statement, admits that this island and that of Bonacea "have doubtless been at various times left unoccupied, and at others claimed or held by other powers;" but says, "it is certain that in 1838, 1839, and 1840, [it ought to have been in 1841,] Great Britain not only asserted her right to the same, but declared her intention to maintain that right by force."

That is, in substance, that Great Britain captured this island from Honduras in 1841, and expelled the troops of that state from it, and now maintains that this capture gives her title. It is impossible that Great Britain can claim this island by the right of conquest, because the capture was made in a time of profound peace. She cannot convert the very act of which Honduras complains as a wrong and an outrage, into the foundation of British title. Of the manner in which the seizure of Ruatan was made by the superintendent of Belize, in 1841, Mr. Crowe speaks in the following language:

"As he expected, Colonel Macdonald found only a few inhabitants, under care of a sergeant and a small detachment of soldiers belonging to the state of Honduras. These being incapable of resistance, he proceeded to haul down the flag of the republic, and to hoist that of Great Britain in its stead. No sooner, however, had he re-embarked, than he had the mortification of seeing the Union Jack replaced by the blue and white stripes of Honduras. He subsequently returned and completed the inglorious revolution, by taking such precautions and making such threats as he thought necessary."

The British statement contests the principle, that the Central American provinces, having by a successful revolution become independent states, succeeded, within their respective limits, to all the territorial rights of Spain.

As the statement presents no reason for denying this principle, it is not deemed necessary to assign reasons in its support in addition to those of the former American statement. The principle cannot, it is conceived, be successfully controverted. Were any third power permitted to interpose and seize that portion of territory which the emancipated colony could not defend, all powers might exercise the same right, and thus the utmost confusion and injustice would follow. If Great Britain could seize Ruatan, France might have taken possession of another portion of Honduras, and the United States of a part of San Salvador; and thus a successful revolution, instead of proving a benefit to those who had asserted and maintained their

independence, would give rise to a general scramble among the nations for a proportion of the spoil.

But the British statement not only denies that her treaty with Mexico of the 26th of December, 1826, is a recognition of the principle asserted, but maintains that it proves the contrary.

At the date of this treaty Great Britain was in possession, for special purposes, of the usufruct of Belize, which she had acquired from Spain under the treaty of 1786. Upon what other principle could she have solicited and obtained from Mexico an agreement that British subjects should not be disturbed in the enjoyment of this limited usufruct, unless upon the principle that Mexico had inherited the sovereign rights of old Spain over the Belize settlement? Had she then intended to claim this settlement in absolute sovereignty, she never would have sought and obtained from Mexico a continuance of her special license. The idea of an absolute owner asking a special permission to use his own property in a particular manner, from a person in whom he recognizes no title, would be, to say the least, a novelty, if not an absurdity. Greatly to her credit and her good faith, however, Great Britain agreed to hold under Mexico in the very same manner she had held under old Spain, and thus clearly recognized the rights of Mexico.

How does the British statement answer this argument? It says that the treaty "simply stipulated that British subjects should not be worse off under Mexico independent than under Mexico when a Spanish province." And "it was natural, in recognizing the independence of Mexico, that Great Britain should make such a stipulation." It was certainly natural that she should do this, but only on the principle that Mexico might otherwise have asserted her rights as the successor of old Spain, and at any moment have terminated the license.

The British statement observes that, since the capture of the island in 1841, no attempt has been made by Honduras to recapture it; and that the commandant of Truxillo, when on two or three occasions complaints had been made to him for redress against the settlers of Ruatan, had referred them to Belize, telling them that the island was British. But what inference can be drawn from these facts? Honduras, from her feebleness, has been compelled to submit, and to resort to the only remedy which the weak have against the powerful. Complaints and protestations against the act, which she has never ceased to make, have been her only resource. How ridiculous it would have been for her to have attempted to recapture this island from Great Britain. And the commandant of Truxillo would, as a matter of course, refer complainants against the settlers in Ruatan to Great Britain for redress—the power in possession, and the only power in existence which could apply the remedy.

If, therefore, the question depending had been between Great Britain and Honduras, and the point to be decided by an impartial umpire were, which of the two powers held the best title to the island, there could be but little doubt, it is conceived, what would be his decision. But, as before remarked, the question is not between these parties, but between Great Britain and the United States. Its decision does not depend upon the validity or invalidity of the British title, but whether Great Britain has bound herself by treaty with the United States not

“to occupy, or fortify, or colonize, or assume or exercise any dominion over” Ruatan. Under these circumstances, it was not the duty of the United States, as is alleged, at the conclusion of the convention of 1850, to have formally contested the title of Great Britain to this island. Such a course could only have produced useless irritation. It was sufficient for them to know that Great Britain, being in the occupation of it, no matter by what title, had agreed to withdraw from this occupation.

But “her majesty’s government cannot admit that an alteration in the internal form of government of these islands is a violation of the treaty, or affords a just cause of remonstrance to the United States.” What are the facts of the case? When the treaty was concluded Great Britain was simply in the occupation of Ruatan, under the capture made by Colonel Macdonald. She had established no regular form of government over its few inhabitants, who, to say the least, were of a very heterogeneous character. She had then taken but the first step, and this in the face of the remonstrances of Honduras, towards the appropriation of the island. No trouble could have been anticipated by the United States in regard to this island. No doubt could have been entertained but that Great Britain would promptly withdraw from it after the conclusion of the treaty. Her relation towards Ruatan at this time was merely that of a simple occupant. From this occupancy it was easy to retire, and the island would then have naturally reverted to Honduras. Instead, however, of taking one step backward, the government of Great Britain has since taken a stride forward, and has proceeded to establish a regular colonial government over it. But this is not all. They have not confined themselves to Ruatan alone, but have embraced within their colony five other Central American islands off the coast of the State of Honduras. One of these, Bonacea, says Bonnycastle, is an island about sixty miles in circumference, and is supposed to be the first island which Columbus discovered on his fourth voyage. It was not known, however, in the United States that the British government had ever made claim to any of these five Central American islands previous to the proclamation announcing their colonization. Indeed, the British statement nowhere asserts that any of them had ever been occupied at any period by Great Britain before their incorporation with Ruatan and the establishment in 1851 of the colony of the “Bay Islands.”

In this manner has the feeble State of Honduras been deprived of every valuable island along her coast, and this is now completely commanded by the impending power of Great Britain.

The government of the United States view the establishment of the colony of the “Bay Islands” in a still more unfavorable light than they do the omission on the part of the British government to carry the provisions of the treaty into effect. They feel this to be the commission of a positive act in “palpable violation both of the letter and spirit of the Clayton and Bulwer convention.”

2. *The Mosquito Protectorate.*

It does not seem necessary to add arguments to those of the former American statement for the purpose of proving that the Mosquito pro-

teetorate has been abolished by the convention. This point has nowhere been directly met throughout the British statement by arguments drawn from the body of the treaty itself. These remarks shall, therefore, be confined to the topics presented in the British statement.

In this discussion, as in the case of the Bay Islands, it ought ever to be borne in mind that it is the true construction of the convention which is mainly to be ascertained and enforced, and not the historical circumstances and events which either proceeded or followed its conclusion.

The admission is noticed with satisfaction that the United States had not, under the convention, acknowledged the existence of the British protectorate in Mosquito. This relieves the argument from much embarrassment and the American negotiator from the imputation of having done an act which would have been condemned by his country.

It is also repeatedly admitted, that although the British government (to employ its own language) "did not, by the treaty of 1850, abandon the right of Great Britain to protect the Mosquitos, yet it did intend to reduce and limit that right." Had the statement proceeded one step further, and specified in what manner and to what extent the British government intended to reduce and limit this right, the controversy on this point might then, for all practical purposes, have been settled. Why? Because Lord Clarendon must have resorted to the convention itself for the limitations imposed on the protectorate; and this would have informed him that it shall never be used for the purpose of "occupying" "the Mosquito coast," "or of assuming or exercising dominion over the same." Let Great Britain no longer employ it for these purposes; let her cease to occupy this coast and exercise dominion over it, and although not all the convention requires, yet for every essential object this would prove sufficient.

The British statement, strangely enough, first proceeds to discuss, at considerable length, what it terms "the spirit" of the treaty, which, it says, "must always be inferred from the circumstances under which it takes place; and afterwards, in a very few lines, disposes of the great question of the true construction of its language. This entirely reverses the natural order of things. Vattel informs us, in his chapter on "The Interpretation of Treaties," that "the first general maxim of interpretation is, that it is not allowable to interpret what has no need of interpretation. When a deed is worded in clear and precise terms, when its meaning is evident and leads to no absurd conclusion, there can be no reason for refusing to admit the meaning which such deed naturally presents. To go elsewhere in search of conjectures in order to restrict or extend it, is but an attempt to elude it. If this dangerous method be once admitted, there will be no deed which it will not render useless."

It was, therefore, incumbent upon the British statement, first, to prove that the language of the convention is obscure, (a most difficult task,) before it could properly resort to extraneous circumstances to explain its meaning. Nevertheless, following the order of the statement, a reply shall first be given to the circumstances adduced.

But, as preliminary to these, the statement branches off into a declaration "that Mr. Buchanan confounds the two conditions of a sovereignty and a protectorate, and under this error treats the agreement 'not to colonize, nor occupy, nor assume, nor exercise dominion over,' as including an agreement not to protect." Now, admitting, for the sake of argument, that these words do not include "an agreement not to protect," they do at least limit this protection, so that it cannot be employed for the purpose of occupying or exercising dominion over the Mosquito coast. Let this be granted, and the United States need ask but little more.

No foundation, however, is to be found in Mr. Buchanan's statement for the criticism, that he had confounded two things so distinct in their nature as "a sovereignty and a protectorate." Indeed, he does not even use the word "sovereignty" in connexion with this topic, throughout his whole statement. On the contrary, he has carefully confined himself to the language of the convention itself, and employed only the words "occupy" "or assume or exercise dominion."

The American government have never treated the protectorate claimed by Great Britain as one which could be recognized by public law. They well knew, from the savage and degraded character of the Mosquito Indians, that no treaty of protection could exist between her Britannic majesty and the king of the Mosquitos, such as is recognized among civilized nations. Under such a treaty, the protected power reserves to itself the right of administering its own government, a right which it was impossible for the Mosquitos to exercise.

This nominal protectorate must, therefore, from the nature of things, be an absolute submission of these Indians to the British government, which, in fact, it has ever been. For these reasons, the American statement has everywhere treated Great Britain as in possession of the Mosquito coast, and in the exercise of dominion over it, in the same manner as though she were its undisputed owner; and has contended that she is bound by the treaty to withdraw from this possession and the exercise of this dominion. This is the substance. All the rest is mere form. In this point of view, it is wholly immaterial whether the relations of the Mosquito Indians towards Great Britain be called a protectorate, a submission, or by any other name. The great object of the convention, as understood by the government of the United States, is, that she should cease to occupy the Mosquito coast, no matter by what name, or under what claim it is retained.

The leading, indeed it may almost be said, the only circumstance adduced to illustrate "the spirit" of the convention, and to bear upon its construction, is a correspondence which took place at London, in November, 1849, between Mr. Lawrence and Lord Palmerston. It is thus sought to convert this preliminary correspondence, which occurred months before the convention was concluded, between different individuals into the means of changing and limiting the meaning of the language afterwards employed by the actual negotiators. By such means, all agreements between private parties, and all treaties between sovereign states might be annulled. When the final agree-

ment is once concluded; the preliminaries become useless. Like the scaffolding of a building, they are cast aside after the edifice has been erected.

But even if such a process were legitimate, there is nothing in this correspondence which, so far from weakening, does not fortify, the construction placed upon the convention by the government of the United States. Mr. Lawrence first asks Lord Palmerston, as the primary object, "whether the British government intends to occupy or colonize Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America?" and then inquires "whether the British government will unite with the United States in guaranteeing the neutrality of a ship canal, railway, or other communication, to be opened to the world and common to all nations?" In reply, Lord Palmerston says, "that her majesty's government do not intend to occupy or colonize Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America;" and he also gave an equally satisfactory answer to the second inquiry of Mr. Lawrence.

Now, what inference does the British statement draw from this language? It is that, as the correspondence, which is alleged to have been before the negotiators, does not refer to the Mosquito protectorate by name, therefore they must have intended that this should remain untouched by the treaty. But no inference can prevail against a positive fact. If the correspondence be silent in regard to the protectorate, not so the convention. This expressly embraces it, and declares, "nor will either [of the parties] make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or people for the purpose (of erecting or maintaining any such fortifications or) of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same."

But even if the convention had not contained this express stipulation in regard to the Mosquito protectorate, and had simply provided for carrying into effect the intention expressed by Mr. Lawrence and Lord Palmerston, that neither of the parties should "occupy or colonize" "the Mosquito coast," this would, it is conceived, have been abundantly sufficient to bind Great Britain to withdraw from its occupation. In point of fact, it resulted from abundant caution alone that the clause just quoted from the convention was superadded, prohibiting Great Britain, whether under the name of a "protection" or "alliance," from "occupying" "the Mosquito coast," "or of assuming or exercising dominion over the same."

In reference to the "literal meaning of the convention," which is certainly the main point, the British statement occupies but a few lines, and avoids any direct discussion of the language which it employs. Indeed, the construction for which the government of the United States contends is substantially admitted. The statement, after quoting the provisions of the article, and asserting that it "clearly acknowledges the possibility of Great Britain or the United States affording protection to Mosquito, or any Central American State," concedes that whilst it was not the intention of the parties to

prohibit or abolish, it was their intention "to limit and restrict such protectorate." Let there be no dispute about words on so grave a question. How did the convention limit and restrict this protectorate? It does this, as before observed, by prohibiting both parties from using "any protection which either affords" for the purpose of occupying or exercising dominion over the Mosquito coast.

Throughout that portion of the argument arising out of the correspondence between Mr. Lawrence and Lord Palmerston, and indeed in other parts of it, the British statement has treated the joint protection of the two governments to the Nicaragua canal as though this were the principal and almost the only feature of the convention. Such expressions as these are explored: "The mere protectorate of Great Britain, stripped of those attributes which affected the construction and the freedom of the proposed canal, was of small consequence to the United States." It is again treated as "a matter of indifference, so far as the canal is concerned, as to whether the port and town of San Juan are under the modified protectorate of Great Britain or under the government of Nicaragua." And again, "The practical difference between Great Britain and the United States, with regard to the only mutually important portion of Mosquito, namely, that portion to which the construction and condition of the canal, which formed the origin and basis of the treaty of 1850, applies, is very small indeed," &c., &c.

These are but very partial and limited expositions of the motives which gave birth to the convention. It consecrated a policy far more extended and liberal. The convention was not confined to a single route, but embraced all the routes, whether for railroads or canals, throughout Central America. To employ its own language, it agreed to extend the protection of the two governments, "by treaty stipulations to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the inter-oceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama." Over all such routes Great Britain and the United States have bound themselves to cast the ægis of their protection, not for their own exclusive benefit, but for that of all the commercial nations of the earth. It was to avoid all jealousies between themselves, as well as those which might arise against either or both on the part of other nations, that they agreed, not merely that neither of them would erect fortifications on the single route of the San Juan, or in its neighborhood, but also, that neither would directly, or by virtue of any protectorate or alliance, "occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America." Without this latter provision the former would have been vain. The prohibition of occupation was, therefore, co-extensive with the whole territory over which such canals or railroads might pass.

Viewing the treaty in the light of its own extended and liberal provisions, it was a matter of some surprise that the British statement should have confined itself merely to a proposition for the two govern-

ments to enter into some arrangement whereby Great Britain may withdraw her protectorate from the port and harbor of Greytown and the northern bank of the San Juan, thus leaving the residue of the Mosquito coast in the hands of the United States.

The government of the United States can become a party to no such arrangement. It stands upon the treaty which it has already concluded, firmly believing that under this Great Britain should, more than four years ago, have ceased to occupy or exercise dominion over the whole and every part of the Mosquito coast. It cannot, therefore, now enter into any new stipulation confined to the port of Greytown and the northern bank of the San Juan. Such an agreement could only lead to fresh complications; and besides, would be a tacit admission, which the United States cannot make, that the convention of 1850 did not embrace the entire Mosquito coast, as well as every other portion of Central America. All that the government of the United States deem it proper to do under existing circumstances, is to persist in their efforts to induce Great Britain to withdraw from the entire coast. This object once accomplished, the treaty will then have its full and beneficent effect. The two powers can then proceed in harmony to procure from the proper Central American States the establishment of two free ports, one at each end of the canal, and successfully to interpose their good offices to settle all existing disputes concerning boundaries between these States. It is manifest, however, that nothing of this kind can be accomplished; there can be no settlement of Central American affairs whilst Great Britain shall persist in expressing a determination to remain in possession, under the name of a protectorate, of the whole coast of Nicaragua on the Caribbean sea.

The Earl of Clarendon has been already informed, that the government of the United States, from motives of humanity, are willing to unite with Great Britain in inducing the State of Nicaragua to assign a suitable portion of her territory for the occupation of the miserable remnant of the Mosquito tribe. This, however, upon the principle always recognized by Great Britain and the United States, in the treatment of their own Indians, that the ultimate dominion and absolute sovereignty belong to Nicaragua; the Mosquitos having a right of mere occupancy, to be extinguished only by the State of Nicaragua.

How unfortunate is the condition of Nicaragua! Her title to all the territory embraced within the limits of the ancient province of that name is perfect. This she has acquired, not only by a successful revolution, but she holds it under a solemn treaty with Spain. This treaty, concluded at Madrid on the 25th July, 1850, recognizes her sovereignty and independence, as well as her right "over the American territory situated between the Atlantic and Pacific seas," and "from sea to sea," "with its adjacent islands, known before under the denomination of province of Nicaragua, now republic of the same name." And yet her eastern coast is covered in its whole extent by the Mosquito protectorate, and she is deprived of every outlet to the Caribbean sea. Her port of San Juan has been seized by British troops, and that of Bluefields is the residence of the king of the Mosquitos, and the seat of the British dominion.

An effort has been made to assimilate the case of the British protectorate over the Mosquitos to that of Englishmen and Americans, acting as ministers to the king of the Sandwich Islands. But there is no parallel between the cases. The inhabitants of the Sandwich Islands are not degraded savages, but a Christian people; and the government of their king has been recognized by the principal powers of the earth. He possesses the right to select foreigners for his ministers, as other sovereigns have frequently done; but these, in the exercise of their functions, are totally independent of their own governments.

It is alleged that a British consul or agent resides in Mosquito, who "may oftentimes be called upon to give his opinion or advice to the Mosquito government." But it is notorious—and from the degraded character of the Indians it cannot be otherwise—that the Mosquito government is exclusively the British government, exercised through the agency of this consul. It is through him that the British government, in the name of this mere shadow of a king, captures the sea-ports of his neighbors by the employment of British forces alone, and exercises dominion over the entire so-called Mosquito coast. We have the nothingness of the Mosquito government and the king graphically delineated by two eminent British statesmen of the present cabinet. Truly this government is but a "*fiction*," whilst that of Great Britain is the substantial reality.

The British statement, after defining the general distinction between "sovereignty" and "defence or protection," presents the consequences which might arise if an agreement "not to occupy or exercise dominion over" should prohibit either party from the performance of certain enumerated acts, either for or against the Central American States. As these remarks are merely hypothetical, and do not seem to have any direct bearing upon the great question pending between the parties, it is deemed unnecessary to prolong this statement by a reply to them *seriatim*. They may be well or ill-founded; but it is inconceivable in what manner they bear upon the simple question under the treaty, which is, shall Great Britain continue to occupy or exercise dominion over the Mosquito coast? not what acts she may perform, without a violation of the convention, after she shall have withdrawn from this occupation and the exercise of this dominion.

Opinions are referred to, said to have been expressed by Mr. Webster, concerning the convention; but this is to be expounded according to its own text, and not by the mere incidental dicta of any man, no matter how eminent.

And here all has been said which either directly or remotely touches the merits of the Mosquito question, but as several other topics have been introduced, it would be improper to pass them over in silence.

The statement declares, in reference to the Mosquito protectorate, that Great Britain "will not enter into any explanation or defence of her conduct with respect to acts committed by her nearly forty years ago." Be it so. Such an explanation is not solicited by the United States. Still it is but just to observe that the British government first set the example of discussing their ancient right to the Mosquito protectorate; and this is the only reason given in the former Ameri-

can statement for presenting "the views of the government of the United States on the subject."

It is highly satisfactory, however, to observe that the British statement, instead of relying upon acts of the English on the Mosquito coast for centuries, limits these within a period of less than thirty years anterior to the present date. It is possible that the former American statement may have done some good in affecting this change by causing Lord Clarendon to re-examine the treaties of 1783 and 1786, and to refer to the history of the time, in which additional proof has been found, not now necessary to be presented, in confirmation of the construction placed upon these treaties by the American government.

It would still have been interesting, as a historical fact, to learn at what time, "nearly forty years ago," under what circumstances, and upon what terms, Great Britain again entered upon Mosquito, after having acknowledged the sovereignty of Spain over it in 1783 and 1786, and surrendered it to that power.

The British statement proceeds to allege that, since the peace of 1815, old Spain had never raised any question with the British government respecting the Mosquito protectorate. This is doubtless the case, because old Spain, from the intimate relations of friendship which had existed between the two governments since their treaty of alliance in 1809, could not have suspected that Great Britain was renewing her connexion with the Mosquitos; and soon after "the acts committed by her nearly forty years ago," the Spanish American revolutionary war commenced, which would naturally prevent the Spanish government from bestowing its attention on a matter so comparatively unimportant.

The statement then denies that, by the British treaty with Mexico of 1826, Great Britain had recognized the right of the Central American States, having achieved their independence, to the territories respectively included within their boundaries, as these had formerly existed under old Spain. As this point has been discussed in a former portion of the present statement, it is not now necessary to add anything to what has already been said.

But, again, argues the British statement, even supposing that these States did inherit the right of old Spain, they made no remonstrance "for many years after the protectorate of Great Britain over Mosquito had been a fact well known to them."

Surely the British government does not mean to contend that the omission of these feeble States, agitated in the first place by a revolutionary war and afterwards by domestic dissensions, to make such remonstrances, would confer upon Great Britain the right to deprive them of their territory? Besides, if it were necessary to go into the question, it might be proved that not many, but only a few years had elapsed before these States did remonstrate against the encroachments of Great Britain.

The statement next asserts, that, although the government of the United States, in 1842, knew of the existence of the British protectorate, yet they did not complain of it until 1849. And from this what is to be inferred? The United States had no right, under any treaty

with Great Britain, to interfere in this question until April, 1850. But even if they had been directly interested in the territory, as Nicaragua was, is there any statute of limitations among nations, which, after six years of unlawful possession, deprives the true owner of his territorial rights?

Had the United States interfered in this question before the conclusion of the convention of 1850, this could only have been done under the Monroe doctrine; and then they would have been informed, as they have already been in the British statement, that this doctrine "can only be viewed as the dictum of the distinguished personage who delivered it; but her majesty's government cannot admit that doctrine as an international axiom which ought to regulate the conduct of European states."

But it must not be inferred, from what has been said, that without this convention the government of the United States would not have eventually interfered, in obedience to the Monroe doctrine, to prevent, if possible, any portion of Central America from being permanently occupied or colonized by Great Britain.

Neither is Lord Clarendon correct in supposing that this doctrine is but the mere "dictum" of its distinguished author. True, it has never been formally sanctioned by Congress; but when first announced, more than thirty years ago, it was hailed with enthusiastic approbation by the American people; and since that period, different Presidents of the United States have repeated it in their messages to Congress, and always with unmistakable indications of public approbation.

If the occasion required, Mr. Buchanan would cheerfully undertake the task of justifying the wisdom and sound policy of the Monroe doctrine, in reference to the nations of Europe, as well as to those on the American continent.

The British statement proceeds to enumerate several instances, commencing in November, 1847, extracted from the report of Mr. Clayton to the President, in July, 1850, in which no answers were returned by the government of the United States to appeals made by or on behalf of the State of Nicaragua for our interference to arrest the progress of British encroachments in Central America.

Surely the war then pending between the United States and Mexico was sufficient to account for this temporary omission, without attributing it to any indifference to the proceedings of Great Britain against Nicaragua.

But even before this war was finally terminated by a treaty of peace, and after the capture of San Juan by the British forces, President Polk, in April, 1848, gave a public pledge to the world, in strong terms, of his adherence to the Monroe doctrine, as he had already done in two previous messages. Besides, in December, 1847, he asked an appropriation from Congress to enable him to send a minister to Guatemala; and this minister was accordingly dispatched, with instructions which have been published, having distinctly in view the adoption of measures necessary to give effect to this doctrine in Central America.

The British statement, whilst admitting that, under the former principles and practice of European nations in regard to their treatment of

the Indian races, the Mosquitos would have no right to rank as an independent State, yet indicates that Great Britain has changed her conduct in this respect. As examples of great changes in other respects which have occurred in modern times, and as an excuse or justification for her own change, the British statement cites the suppression of the African slave trade, and the establishment of the republic of Liberia. Neither of these would seem to be very wonderful. They both occurred in the natural progress of events, from the advance of civilization and the efforts of wise and benevolent men. But the British government will have performed a miracle if they can convert the debased and degraded race of Mosquito Indians, such as they have been described without contradiction in the American statement, into citizens or subjects of a really independent and sovereign nation.

The British statement also declines to furnish "the grounds on which her majesty's government made the capture of San Juan de Nicaragua," and it is, therefore, scarcely necessary to pursue this branch of the subject. If it were, it would be easy to add proofs to those contained in the former American statement, that this was never a Mosquito port, in any sense, but always, together with the river San Juan, rightfully belonged to Spain, and afterwards to Nicaragua. Reference might be made to the report of Sir William Wise, the commander of the British ship-of-war *Sophie*, who visited the coast in 1820, and also to that of Mr. Orlando Roberts, who was carried as a prisoner up the San Juan in 1821. The latter describes the fort to which Captain Bonnycastle had referred, as then still mounting twelve large pieces of cannon, and containing accommodations for one hundred men. The two chapters of Crowe's *Central America*, entitled "British Encroachments," might also be cited. Of these the author presents a striking history, from the time of the numerous and formidable but unsuccessful expedition of Great Britain against Spain, in 1780, for the purpose of wresting from that power the port and river of San Juan, until they were finally captured from Nicaragua, in 1848, and then first became a part of the Mosquito protectorate.

3. *Territory between the Sibun and the Sarstoon.*

The next portion of Central America which demands attention is the territory between the rivers Sibun and Sarstoon. Over this territory the British settlers from Belize have been encroaching for several years; but this, it was believed, without the authority or sanction of the British government. It now appears that Great Britain claims the territory, and declines to withdraw from its occupation, in obedience to the convention.

In regard to it the question need not be discussed, whether the convention embraces the entire isthmus, geographically known as Central America, or is confined to the five States which formerly composed the republic of that name. In either sense, the country between the Sibun and the Sarstoon is included within Central America. This territory is a part of the province of Vera Pas, all of which constitutes an integral portion of the State of Guatemala. At the date of the treaty of 1786, and until the Spanish dominion terminated, the territory south of the Sibun was included within the ancient kingdom of

Guatemala, of which, with the exception of Chiapas, the confederated republic was composed. This, as a geographical fact, it is presumed will not be denied.

The British statement contends that Mr. Clayton's declaration of the 4th of July, 1850, not only embraces the settlement of Belize proper, under the treaty with Spain, but covers the territory south of it, between the Sibun and the Sarstoon.

The language employed by Mr. Clayton is: "The British settlement in Honduras." Now, while such a settlement exists under the treaty of 1786, to which this language is precisely applicable, it would be a most strained construction to extend its application beyond the treaty limits and make it protect the encroachments of British settlers over a larger territory than that included within the settlement itself.

Besides, Mr. Clayton states, in a subsequent part of the same document, that the convention of 1850 "was understood to apply to, and does include, all the Central American States of Guatemala, Honduras, San Salvador, Nicaragua, and Costa Rica, with their just limits and proper dependencies."

Then, under this declaration itself, the territory in question being within "the just limits" of the State of Guatemala, is expressly embraced by the convention.

Lord Clarendon considers himself "more warranted" in concluding that Mr. Clayton's statement applies to this territory, "from the fact that the United States had, in 1847, sent a consul to the settlement, which consul had received his exequatur from the British government; a circumstance, says his lordship, which constitutes a recognition, by the United States government, of the settlement of British Honduras under her majesty, as it then existed."

Now, it would be easy to prove that a consul is never sent to a whole settlement, or to an entire nation, but only to a single port, for the purpose of superintending the commerce at that port, and, therefore, that no inference could be drawn from the fact that the United States had sent a consul to the port of Belize, within the treaty limits, in favor of the claim of Great Britain to a country far beyond these limits; but this would not be sufficient for the occasion. Mr. Buchanan emphatically denies the proposition that the appointment of a consul to Belize was any, even the slightest, recognition of the right of Great Britain to this very port.

A consul is an officer appointed to reside in a foreign country for the purpose of facilitating, extending, and protecting the trade of his nation with that country. Such officers follow foreign trade, wherever it may go, and afford protection to it, no matter whether the ports to which they are sent be in the possession of the rightful owner or a usurper. The appointment of a consul recognizes nothing more than the *de facto* possession of the port by the power from which his exequatur is received. Such an appointment does not, in the slightest degree, interfere with the question of the right [*de jure*] of this power to be in possession. This has ever been, and this must ever be, the law and practice of modern commercial nations. If it were otherwise, then, before the appointment of a consul, the government of a nation must first carefully inquire whether the party in possession be the

rightful owner of the port; and if they determine against its right, then their commerce with it must either cease altogether or remain without consular protection. This would be a novel doctrine to maintain in the present age of commercial progress.

The law and practice of nations have for a long period been clear on this point; because consuls are mere commercial and not political agents. At the present time, even the appointment of a public minister is wisely considered as a recognition of nothing more than the *de facto* possession of the power to which he is accredited.

The British statement claims the territory between the Sibun and the Sarstoon by right of conquest, and observes "that the treaty of 1786 was put an end to by a subsequent state of war" with Spain, and "that during that war the boundaries of the British settlement in question were enlarged," and that the subsequent treaty of peace not having revived the treaties of 1783 and 1786, Great Britain is entitled to retain this territory.

It may be observed that the statement does not mention at what period the boundaries of the British settlement were enlarged. If this took place, as it is believed it did, after the date of the treaty of alliance between Great Britain and Spain in 1809, which terminated the war, then this argument falls to the ground. If before 1809, Great Britain, when concluding this treaty, ought to have informed Spain that she intended to convert the encroachments of the settlers in Belize on Spanish territory into an absolute right. That she did not then intend to pursue such a course towards an ally in distress, is clear from her subsequent conduct.

In 1814 Great Britain revived all her pre-existing commercial treaties with Spain; and what is the privilege granted to her by the treaty of 1786, of cutting mahogany, logwood, and other dye-woods on Spanish territory, thus enabling her to extend British commerce in these articles, but a commercial privilege?

So far from the treaty of 1786 being "put an end to" by the war, its continued existence in 1817 and 1819 was recognized by acts of the British parliament; these declare, in so many words, that Belize was "not within the territory and dominion of his majesty," but was "merely a settlement for certain purposes, in the possession and under the protection of his majesty."

For the nature of this "settlement," and a knowledge of "these certain purposes," we can refer nowhere except to the treaties of 1783 and 1786.

In addition to these acts of parliament it is proper here to repeat, that, so late as 1826, Great Britain has, by her treaty with Mexico, acknowledged the continued existence and binding force of the treaty of 1786.

But no matter what may be the nature of the British claim to the country between the Sibun and the Sarstoon, the observation already made in reference to the Bay Islands and the Mosquito coast must be reiterated, that the great question does not turn upon the validity of this claim previous to the convention of 1850, but upon the facts that Great Britain has bound herself by this convention not to occupy any part of Central America, nor to exercise dominion over it; and that

the territory in question is within Central America, even under the most limited construction of these words. In regard to Belize proper, confined within its legitimate boundaries, under the treaties of 1783 and 1786, and limited to the usufruct specified in these treaties, it is necessary to say but a few words. The government of the United States will not for the present insist upon the withdrawal of Great Britain from this settlement, provided all the other questions between the two governments concerning Central America can be amicably adjusted. It has been influenced to pursue this course partly by the declaration of Mr. Clayton on the 4th of July, 1850, but mainly in consequence of the extension of the license granted by Mexico to Great Britain under the treaty of 1826, which that republic has yet taken no steps to terminate.

It is, however, distinctly to be understood, that the government of the United States acknowledge no claim of Great Britain within Belize, except the temporary "liberty of making use of the wood of the different kinds, the fruits and other produce in their natural state," fully recognizing that the former "Spanish sovereignty over the country" now belongs either to Guatemala or Mexico.

In conclusion, the government of the United States most cordially and earnestly unite in the desire expressed by "her majesty's government, not only to maintain the convention of 1850 intact, but to consolidate and strengthen it by strengthening and consolidating the friendly relations which it was calculated to cement and perpetuate." Under these mutual feelings, it is deeply to be regretted that the two governments entertain opinions so widely different in regard to its true effect and meaning.

JAMES BUCHANAN.

Convention between the United States of America and her Britannic Majesty, for facilitating and protecting the construction of a ship canal between the Atlantic and Pacific oceans, and for other purposes. Concluded April 19, 1850; ratified by the United States May 23, 1850; exchanged July 4, 1850; and proclaimed by the United States July 5, 1850.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a convention between the United States of America and her Britannic majesty, for facilitating and protecting the construction of a ship canal between the Atlantic and Pacific oceans, and for other purposes, was concluded and signed at Washington on the 19th day of April last, which convention is, word for word, as follows :

Convention between the United States of America and her Britannic Majesty.

The United States of America and her Britannic majesty, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship canal which may be constructed between the Atlantic and Pacific oceans, by the way of the river San Juan de Nicaragua, and either or both of the lakes of Nicaragua or Managua, to any port or place on the Pacific ocean: the President of the United States has conferred full powers on John M. Clayton, Secretary of State of the United States; and her Britannic majesty on the Right Honorable Sir Henry Lytton Bulwer, a member of her majesty's most Honorable Privy Council, Knight Commander of the Most Honorable Order of the Bath, and Envoy Extraordinary and Minister Plenipotentiary of her Britannic majesty to the United States for the aforesaid purpose; and the said plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following articles:

ARTICLE I.

The governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connexion or influence that either may possess with any State or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal, which shall not be offered on the same terms to the subjects or citizens of the other.

ARTICLE II.

Vessels of the United States or Great Britain traversing the said canal shall, in case of war between the contracting parties, be exempted from blockade, detention, or capture by either of the belligerents; and this provision shall extend to such a distance from the

two ends of the said canal as may hereafter be found expedient to establish.

ARTICLE III.

In order to secure the construction of the said canal, the contracting parties engage, that if any such canal shall be undertaken upon fair and equitable terms by any parties having the authority of the local government or governments through whose territory the same may pass, then the persons employed in making the said canal, and their property used, or to be used, for that object, shall be protected, from the commencement of the said canal to its completion, by the governments of the United States and Great Britain from unjust detention, confiscation, seizure, or any violence whatsoever.

ARTICLE IV.

The contracting parties will use whatever influence they respectively exercise with any State, States, or governments, possessing, or claiming to possess, any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such States or governments to facilitate the construction of the said canal by every means in their power. And furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal.

ARTICLE V.

The contracting parties further engage, that when the said canal shall have been completed, they will protect it from interruption, seizure, or unjust confiscation, and that they will guaranty the neutrality thereof, so that the said canal may forever be open and free, and the capital invested therein secure. Nevertheless, the governments of the United States and Great Britain, in according their protection to the construction of the said canal, and guarantying its neutrality and security when completed, always understand that this protection and guaranty are granted conditionally, and may be withdrawn by both governments, or either government, if both governments, or either government, should deem that the persons or company undertaking or managing the same, adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this convention, either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon passengers, vessels, goods, wares, merchandise, or other articles. Neither party, however, shall withdraw the

aforesaid protection and guaranty without first giving six months notice to the other.

ARTICLE VI.

The contracting parties in this convention engage to invite every State with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated. And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree, that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations; and should any differences arise as to right or property over the territory through which the said canal shall pass between the States or governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the contending parties.

ARTICLE VII.

It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this convention; and if any persons or company should already have, with any State through which the proposed ship canal may pass, a contract for the construction of such a canal as that specified in this convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object, and the said persons or company shall, moreover, have made preparations, and expended time, money, and trouble on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim, over every other person, persons, or company, to the protection of the governments of the United States and Great Britain, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding their arrangements, and

presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking ; it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprise, then the governments of the United States and Great Britain shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

ARTICLE VIII.

The governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the inter-oceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid governments shall approve of as just and equitable ; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

ARTICLE IX.

The ratifications of this convention shall be exchanged at Washington within six months from this day, or sooner if possible.

In faith whereof, we, the respective plenipotentiaries have signed this convention, and have hereunto affixed our seals.

Done at Washington, the nineteenth day of April, Anno Domini one thousand eight hundred and fifty.

JOHN M. CLAYTON.

HENRY LYTTON BULWER.

[L. S.]

[L. S.]

And whereas the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington, on the fourth instant, by John M. Clayton, Secretary of State of the United States, and the Right Honorable Sir Henry Lytton Bulwer, envoy extraordinary and minister plenipotentiary of her Britannic majesty, on the part of their respective governments :

Now, therefore, be it known, that I, ZACHARY TAYLOR, President of the United States of America, have caused the said convention to be

made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

[L. S.] In witness whereof I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington, this fifth day of July, in the year of our Lord one thousand eight hundred and fifty, and of the independence of the United States the seventy-fifth.

Z. TAYLOR.

BY THE PRESIDENT:

J. M. CLAYTON, *Secretary of State.*

DECLARATION.

In proceeding to the exchange of the ratifications of the convention signed at Washington on the 19th of April, 1850, between her Britannic majesty and the United States of America, relative to the establishment of a communication by ship canal between the Atlantic and Pacific oceans, the undersigned, her Britannic majesty's plenipotentiary, has received her majesty's instructions to declare that her majesty does not understand the engagements of that convention to apply to her majesty's settlement at Honduras, or to its dependencies. Her majesty's ratification of the said convention is exchanged under the explicit declaration above mentioned.

Done at Washington the 29th day of June, 1850.

H. L. BULWER.

MEMORANDUM.

DEPARTMENT OF STATE,
Washington, July 5, 1850.

The within declaration of Sir H. L. Bulwer was received by me on the 29th day of June, 1850. In reply, I wrote him my note of the 4th of July, acknowledging that I understood British Honduras was not embraced in the treaty of the 19th day of April last; but at the same time carefully declining to affirm or deny the British title in their settlement or its alleged dependencies. After signing my note last night, I delivered it to Sir Henry, and we immediately proceeded, without any further or other action, to exchange the ratifications of said treaty. The consent of the Senate to the declaration was not required, and the treaty was ratified as it stood when it was made.

JOHN M. CLAYTON.

N. B. The rights of no Central American State have been compromised by the treaty or by any part of the negotiations.

Mr. Clayton to Sir H. L. Bulwer.

DEPARTMENT OF STATE,
Washington, July 4, 1850.

SIR: I have received the declaration you were instructed by your government to make to me respecting Honduras and its dependencies, a copy of which is hereto subjoined.

The language of the first article of the convention concluded on the 19th day of April last, between the United States and Great Britain, describing the country not to be occupied, &c., by either of the parties, was, as you know, twice approved by your government; and it was neither understood by them, nor by either of us, (the negotiators,) to include the British settlement in Honduras, (commonly called British Honduras, as distinct from the State of Honduras,) nor the small islands in the neighborhood of that settlement which may be known as its dependencies. To this settlement and these islands the treaty we negotiated was not intended by either of us to apply. The title to them it is now, and has been my intention throughout the whole negotiation, to leave as the treaty leaves it, without denying, affirming, or in any way meddling with the same, just as it stood previously. The chairman of the committee on foreign relations of the Senate, the Honorable William R. King, informs me that "the Senate perfectly understood that the treaty did not include British Honduras." It was understood to apply to, and does include, all the Central American States of Guatemala, Honduras, San Salvador, Nicaragua, and Costa Rica, with their just limits and proper dependencies. The difficulty that now arises seems to spring from the use, in our convention, of the term "Central America," which we adopted because Viscount Palmerston had assented to it and used it as the proper term, we naturally supposing that, on this account, it would be satisfactory to your government; but if your government now intend to delay the exchange of ratifications until we shall have fixed the precise limits of Central America, we must defer further action until we have further information on both sides, to which, at present, we have no means of resort, and which it is certain we could not obtain before the term fixed for exchanging the ratifications would expire. It is not to be imagined that such is the object of your government, for not only would this course delay, but absolutely defeat the convention.

Of course, no alteration could be made in the convention as it now stands, without referring the same to the Senate; and I do not understand you as having authority to propose any alteration. But on some future occasion, a conventional article, clearly stating what are the limits of Central America, might become advisable.

There is another matter, still more important, which the stipulations of the convention direct that we shall settle, but which you have no instructions now to determine; and I desire you to invite the attention of your government to it—"the distance from the two ends of the canal" within which "vessels of the United States or Great Britain, traversing the said canal, shall, in case of war between the

contracting parties, be exempted from blockade, detention or capture by either of the belligerents." The subject is one of deep interest, and I shall be happy to receive the views of your government in regard to it, as soon as it may be convenient for them to decide upon it.

I renew to you, sir, the assurances of the distinguished consideration with which I have the honor to be your obedient servant,

JOHN M. CLAYTON.

To the Right Hon. Sir HENRY L. BULWER, &c., &c., &c.

